

BOARD OF HEALTH MINUTES
April 1, 2013

Marie O'Rourke, Chair, called the meeting to order at 8:00 p.m. Also in attendance were Robert Reader, Vice Chair, Sandra Giroux, Secretary, Daniel Kane, Mike Grady, Richard Berube, Director and Joanne White, Recording Clerk.

ACCEPTANCE OF MINUTES

Mr. Kane made a motion to accept the Meeting Minutes of March 4, 2013.
Mr. Reader seconded. So voted unanimously.

CORRESPONDENCE

Anthony Collela - Flouride

Mrs. O'Rourke stated that an email was sent from Anthony Collela regarding fluoride.

Mr. Berube explained that the Health Department received an email from Anthony Collela expressing his concern with fluoride in the Town of Billerica's drinking water. Mr. Collela has provided links to some studies that show that fluoride in the drinking water can cause brain damage in children. I wanted to bring this to the Board's attention. Mr. Berube explained that he has assigned the Public Health Nurse, Christine West to do some research. I have reviewed the Health Department's files to see how fluoridation was ordered in the town's drinking water. In 1988, the Department of Public Health recommended that the Board of Health order the upward adjustment of fluoride to the water supply. On March 2, 1988 the Board voted in favor and subsequently it went to a town wide ballot where it passed. Since that time the Town's water has been fluoridated.

Mrs. O'Rourke asked if any of this information has been given to the Town Chemist.

Mr. Berube replied no, but I have spoken to John McGovern, Superintendent of the Water Department and his personal opinion is that he would like to see the fluoride removed from the Town's

water supply. He does not think it is beneficial to the residents of the town.

Mr. Reader asked don't children have fluoride treatments when they go to the dentist.

Mr. Berube replied that if young kids up to the age of eight (8) have too much fluoride they can get develop fluorosis which is the pitting of their teeth. So up to the age of eight (8) children should not be using fluoride toothpaste.

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

The Board Members did not have any questions.

Mr. Berube asked the Board Members if they would like him to pursue this and come back before the Board with a report.

Mrs. Giroux asked if Mr. Berube if it would be possible to come back with a report at the May 6, 2013 meeting.

Mr. Berube replied that he would try to gather all the information and have a report ready for the next meeting.

BOARD OF HEALTH BUSINESS

Health Department Activity Reports

Mrs. O'Rourke stated the first item under Board of Health Business is the Health Department Activity Reports.

Copies of the Health Department Activity Reports for the month of March are included in the Boards package.

Mrs. O'Rourke stated the first activity report is from the Public Health Nurse, Christine West.

Mr. Berube explained that Christine is in the process of scheduling renewal CPR classes for Town Employees with Paramedic, Joe Devlin. Christine continues with Communicable Disease Reporting/Follow up and vaccines as needed. Eight (8) school physicals were given at the Board of Health office on Friday, March 1, 2013 with the Town Pediatrician, Dr. Guyestky.

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

The Board Members did not have any questions.

Mrs. O'Rourke stated the next report is from Health Agent, Phavy Pheng.

Mrs. O'Rourke asked about the complaint regarding junk and debris at 2 Sylvan Road.

Mr. Berube explained that due to the owners medical problem Phavy has given him additional time to clean up his property.

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

The Board Members did not have any questions.

Mrs. O'Rourke stated the last activity report is from Health Agent, Gary Courtemanche.

Mrs. O'Rourke asked the Board Members if they had any questions regarding Gary Courtemanche's report.

The Board Members did not have any questions.

Nomination of Inspector of Animals

Mrs. O'Rourke stated the next item is the Nomination of Inspector of Animals. I am looking for the Board to ratify the appointment.

Mrs. Giroux made a motion to ratify the appointment of Diane Allen Murphy as the full time Inspector of Animals in the Town of Billerica.

Mr. Grady seconded. So voted unanimously.

Healthy Communities Tobacco Control Program Compliance Check Report

Mrs. O'Rourke stated the next item is the compliance report from the Healthy Communities Tobacco Control Program.

Mr. Berube explained that Ron Beauregard is present to give a report on the compliance checks.

Ron Beauregard, Healthy Communities Tobacco Control Program, identified himself. Mr. Beauregard explained that he started working in Billerica in July 2011. Since that time I have performed two (2) rounds of compliance checks that are required by the federal grant. The federal grant is called the Synar Amendment. Mr. Beauregard explained that a student sixteen or seventeen years old is sent into each establishment to buy a tobacco product and to make sure that an ID is asked for. In FY12 we did not have an opportunity to check all the establishments. The Food and Drug Administration (FDA) also conducts compliance checks. In FY12 we checked thirty-five (35) establishments and there were

two (2) sales which represent a 6% sales rate. That is well within the State's range. In FY13 we checked all forty-two (42) establishments and there were five (5) sales which represent a 12% sales rate. That is still within the State's average but something of a concern. I have met with all of the retailers in Billerica. We all agree that we do not want to sell tobacco products to the youth. We also want to be sure that everyone is ID. We want to keep the percentage rate as close to zero as we can.

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

Mr. Grady asked were any of the offenders in FY13 repeat offenders from FY12.

Mr. Beauregard replied no.

Mr. Kane asked can you share the list of the violators.

Mr. Beauregard replied yes. Mr. Beauregard explained that after the compliance check has been completed, I go into the establishment and talk to the manager or person in charge. If the manager is not there we send a letter the next day. If there is a violation, a fine is issued and the payment is sent to the Board of Health.

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

Medical Marijuana Update

Mrs. O'Rourke stated the next item is the Medical Marijuana Update.

Mr. Berube explained that in the Boards package is a copy of the State Law as well as a copy of the presentation from the Medical Marijuana seminar that he attended on March 21, 2013. The seminar was sponsored by the Massachusetts Health Officers Association (MHOA). A copy of the State Law is included and the highlighted portions represent issues that are currently unanswered. The Department of Public Health just released a draft copy of the regulations for Medical Marijuana. Mr. Berube recommended that a subcommittee be formed to draft the local regulations.

Mrs. O'Rourke asked Mr. Berube is this what you have been discussing with the Town Manager, John Curran and the Police Chief, Dan Rosa.

Mr. Berube replied yes. Medical Marijuana will have to be addressed through the Zoning Board of Appeals as well as the Police Department. Town Counsel will also be involved.

Mrs. O'Rourke asked for volunteers for the subcommittee.

Mrs. Giroux, Mr. Grady and Mr. Reader volunteered to be on the subcommittee to draft the regulations for Medical Marijuana.

Mr. Reader asked if individuals from other town departments will be on the subcommittee.

Mr. Berube replied yes.

Aerial Larvicide Program

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

Mr. Berube explained that Central Massachusetts Mosquito Control Program (CMMCP) will commence with the Mosquito Larval Control Program on or about April 1, 2013. The Aerial Larvicide Program will take place either the third or fourth week in April. When CMMC notifies me of the exact date of the application it will be posted in the local paper and all the appropriate agencies will also be notified.

7:30 p.m. Hearing for the Adoption of the Revised Rules and Regulations and Fee Schedule

Mrs. O'Rourke stated the next item on the agenda is the adoption of the revised Rules and Regulations and the fee schedule.

Mr. Berube stated that Chapter 3 is the Proposed Bodyworks Therapy Regulations. Mr. Berube explained that originally Chapter 3 included Massage Therapy Regulations. The Legislation was passed in 2006 pre-empting the Board's authority to regulate Massage Therapy. In 2008, the State took control and had regulations in place and established a Board of Licensure for Massage Therapy. Recently, it has come to the Health Department's attention that exempted therapy operations are in Billerica and are operating without regulation and pretty much doing anything they want. It has been suggested that some kind of sexually activities are taking place in some of these Bodywork Establishments. The Police Chief, Dan Rosa suggested that it would be reasonable to establish regulations in order to cover the loop hole in the States' regulations. Town Counsel has reviewed and made a few revisions to the proposed Bodywork Therapy Regulations. The latest version of the Bodywork Therapy Regulations has been provided to the Board.

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

The Board Members did not have any questions.

Mrs. O'Rourke asked if anyone in the audience had any questions regarding the Proposed Bodywork Therapy Regulations.

No one in the audience had any questions.

Mrs. Giroux made a motion to adopt the Board of Health Rules and Regulations for the Practice of Bodywork Therapy in Billerica.

Mr. Reader seconded. So voted unanimously.

Mr. Berube stated the next proposed regulation is Chapter 4 Tobacco Regulations. The Board has been given several last minute comment letters about the proposed tobacco regulations. Ron Beauregard is going to give a brief presentation and comment on the letters.

Mr. Beauregard thanked the Board for taking on the tobacco control issue and revising their local regulations. The smoking rate in Massachusetts is 18% representing nearly one (1) million adults and 40 % of the youth under the age of eighteen (18). Mr. Beauregard explained that the costs are economic and human. Mr. Beauregard explained that over 8,000 people die in Massachusetts per year because of smoking. Three and a half billion dollars a year is spent on smoking in Massachusetts. Many years ago you couldn't sell a single cigarette. And the thought process was why force someone to buy a pack of cigarettes if all they wanted was a single cigarette. However, that was rejected and that was found to be the right move. To buy a pack of cigarettes cost more. The idea was if you make that pack more expensive you will sell less. Also, if you make it more expensive you will make it more difficult to buy and the rates will go down. The most economical research shows that every time the price of tobacco goes up overall consumption goes down 3-5%. Almost 7% of the consumption is among the youth. It is a smart thing to do economically. Mr. Beauregard summarized the letters that were received from the Retailers Association of Massachusetts (RAM), New England Convenience Store Association and New England Service Station & Auto Repair Association, Inc. The letters talked about the proposed regulation that would ban the sale of loose cigars in Billerica and how that would affect the retailers. The second concern is the proposed regulation which aims to ban the sale of tobacco in retail pharmacies. The third concern is the banning of blunt wraps. The letters expressed the concern that the elimination of products from the retailer's shelves will result in a decrease in customer traffic and will impact the sale of any number of other product lines therefore causing a decrease in revenue.

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

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

Mrs. O'Rourke asked if anyone in the audience had any questions or would like to comment on the proposed tobacco control regulations.

Carol Butze, 58 Sachem Street, Billerica, identified herself. Ms. Butze stated that she applauds the Board of Health for coming up with these regulations. As for limiting the sale of tobacco products in health care institutions and allowing the sales in pharmacies I do not agree with. I think it would be best not to allow the health care institutions to sell tobacco products because you are sending a mixed message. As for blunt wraps, I agree with you on the banning of sales because they are targeting our youth. Ms. Butze showed an example of the blunt wraps and a single cigar. I think that having tobacco products priced to sell at a more expensive cost is helping our youth and adults not to smoke. In Billerica we have an Ex-Smokers Hall of Fame and eleven (11) people were inducted into the Hall of Fame. It is hard to quit smoking. As we get older we realize the health risks and the damage it can do to our bodies, our health and our environment. The tobacco industry is targeting our youth by making the cost of tobacco products expensive. The kids can't afford it. I applaud you for taking this step. I am

asking that you do not allow the sale of tobacco products to continue in pharmacies and health care institutions.

Ms. Anne Flint, representative from Cumberland Farms based in Framingham Massachusetts, identified herself. Ms. Flint explained that she is present with two (2) representatives from the Billerica Cumberland Farms. Ms. Flint explained that Cumberland Farms operates over two hundred (200) convenient stores in Massachusetts. We employ over 2,000 employees throughout Massachusetts. We employ ten (10) employees in Billerica. We have invested over 2.2 million dollars in this site. We are concerned about the effect that restricting the sale of tobacco products will have on our operations that do business in this town. The cigar sales are a significant percent of our tobacco sales. Customers who shop in this store buy other products as well as the tobacco products. If this restriction goes forward customers will buy these tobacco products in neighboring cities and towns and more easily through the internet. We have witnessed this trend in other states. With a drop in sales revenue Cumberland Farms and other retailers may be forced to close stores and lay off employees putting more people out of work and contributing to the Billerica unemployment rate. Cumberland Farms is a responsible retailer and is committed to not selling tobacco products including cigars to minors. We take pride in our level of training with resources and commit to prevent the sale of tobacco products to minors. Banning the product and passing a law is unnecessary. As a result Cumberland Farms might have to shut down rather than invest in new stores. Ms. Flint thanked the Board for giving her the opportunity to express her concerns.

Mrs. Giroux asked what percent of the sale of cigarettes and tobacco products have on Cumberland Farms.

Ms. Flint replied that she does not have the numbers for that store because it is a new site. I will get the numbers for the Board.

Mr. Kane stated so you don't know what impact this regulation would have on your business.

Ms. Flint replied she knows that the proposed regulations would play a significant part in our tobacco and cigar sales.

Karla Marcotte, franchise owner of the Tedeschi Food Shops, 1 Bridle Road identified herself. Ms. Marcotte explained that she purchased the franchise three and a half (3.5) years ago and she is a single mom. The tobacco products are 52% of her sales. This regulation would impact two (2) part-time or one (1) full time employee. Ms. Marcotte expressed her concern because she would have to lay off one (1) or maybe two (2) of her employees. Ms. Marcotte explained that she bought the store to give herself and her son a better life. Ms. Marcotte stated that she does not think that it should be up to any city or town to dictate what an individual can or cannot do. Ms. Marcotte explained that if she does her due diligence and trains her employees to not sell tobacco to minors why should she be penalized for other retailers that do not do their due diligence. This is a sore spot with me. I think we are getting away from freedom in America.

Mr. Berube asked Ms. Marcotte how the proposed regulations will affect her business.

Ms. Marcotte replied that 52% of her business is tobacco sales. 25% of the tobacco sales is for single use cigars. I will have to work more hours to make up for my lost income for a regulation that is in one town and not in other towns. It may take three (3) or four (4) months but it will happen. Thank-You.

Ricky Arevalo, Hess Express, 192 Boston Road, identified himself. Mr. Arevalo explained that 45% of his sales are tobacco products. We always check for an ID. We are not promoting sales to young adults. Most of our customers who purchase cigars come in for milk and other products. It will have a major impact on our revenue and sales. Hess sends in a secret shopper to make sure that we are not selling to minors. We are very concerned about our young people and at the same time we are doing the right thing.

Mrs. Giroux asked what percent of your sales is for flavored blunts.

Mr. Arevalo replied very low.

Mrs. Giroux asked so that would not hurt your business.

Mr. Arevalo replied probably not.

Mrs. Giroux explained that she sees a lot of young people smoking the flavored blunts on the high school grounds. The more places in Billerica that we ban the sale of blunts the harder it will be for the students to get them. They have to be getting them from somewhere.

Mr. Arevalo replied that it is going to affect us regardless. We are not promoting sales to young adults. I can't tell you what impact it will have but we do sell them. Tobacco sales is a big percentage of our revenue. We have employees that are responsible for the tobacco sales.

Mr. Kane asked what the range of cost for a single cigar is.

Mr. Arevalo replied the single cigar ranges from 99 cents to \$2.09.

Mrs. Giroux asked is that the same range for Cumberland Farms.

Ms. Flint replied it may be as low as 69 cents and as high as \$2.99.

Mr. Arevalo replied that he checks around and compares the prices at the other retailers in town.

Tom Bird, Turnpike Market, 509 Middlesex Turnpike, identified himself. Mr. Bird explained that he owns a small store that has been his family business for three (3) generations. We sell tobacco as well. Tobacco sales are 10-15% of my total sales. I have several people that stop in to purchase a blunt

on their way home from work. It would hurt my business to lose them because when they come in they also purchase a six pack of beer or a bottle of wine. We do not promote the sale of cigarettes to minors.

Nancy, a worker in Cumberland Farms in Billerica, identified herself. Nancy stated that there is a difference between a blunt and blunt wraps.

Mr. Bird stated that in the letter it talks about increasing the cost of the violations. Mr. Bird expressed his concern because the increase in the cost of a violation will drastically affect small businesses.

Helen Devlin, 7 Baldwin Road, Billerica identified herself. Ms. Devlin explained that a blunt wrap is used to wrap marijuana. A student cannot walk down the street smoking a blunt without being noticed. It will take a while for the general public to notice that student is smoking non-medicinal weed/marijuana.

D.J. Wilson, Tobacco Control Director, Massachusetts Municipal Association, identified himself. Mr. Wilson explained that he has been working with Ron Beauregard for a long time. Mr. Wilson provided the Board Members with a copy of the Municipal Tobacco Control Technical Assistance Program. Mr. Wilson stated that he will talk about the four (4) issues and what is happening state wide. As I reviewed your draft regulations it includes the States Fining Law of one hundred (100), two hundred (200) and three hundred (300) dollars. You cannot go below the fines set by the State. The Billerica Board of Health is looking to change the length of time after a violation occurs to a longer period of time between each violation. That means that the tobacco retailers will have to do better for a longer period of time. Mr. Wilson explained that back about two (2) years ago the use of cigarettes were eclipsed by cigars. We see more and more cigar flavors and it is beyond our control. Boston has 940 retailers. Half of the retailers still sell single cigars at \$2.50 each. In Boston, we have not found any loss of businesses or loss of jobs because of this regulation. Mr. Wilson explained that on page 1 there are sixteen (16) cities and towns that have or will have adopted the minimum pricing for cigars by the summer of 2013. Page 2 is a summary of the fifty-six (56) cities and towns that have the complete ban on tobacco sales in pharmacies. There hasn't been a law suit or violations as of this time. In Billerica, the Board of Health proposed regulations state that only health care institutions in Billerica holding a valid tobacco sales permit as of January 1, 2013 shall be permitted to sell tobacco products. On page 3 is the list of the municipalities that limit the number of tobacco sales permits. The idea is too slowly reduce the number of permits per capita. Page 4 lists the municipalities that Ban the sale of Blunt Wraps. Philly blunts have been around for ages. Philly blunts come in many different flavors. Mr. Wilson explained how the blunt wraps are made.

Mrs. O'Rourke asked if anyone in the audience would like to address the Board.

No one in the audience had any other questions or comments.

Mrs. Giroux asked if anyone is present from a pharmacy in town.

No one was present.

Mrs. O'Rourke asked if anyone was present from the Billerica Smoke Shop.

No one was present.

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

Mr. Kane asked Mr. Beauregard if he could provide the Board with the list of violators in FY12 and FY13. Mr. Kane stated they have received a citation so it should be a public record.

Mr. Beauregard replied if there isn't any objection he would provide the Board with the establishments.

Town Counsel, Pat Costello explained that as long as there is no law enforcement investigation ongoing with respects to the citation that it would not be a problem to provide the names of the establishments that were cited in FY12 and FY13.

Mr. Kane stated that he wanted to see if there a pattern or repeat violators.

Mr. Berube replied that all the fines have been paid.

Mr. Beauregard explained that the Massachusetts General Laws, Chapter 40, Section 21D, which is the state law that allows communities to adopt a non-criminal method of enforcing regulations. In FY12 Walgreen's at 446, Boston Road and Fill N. Chill, 653 Boston Road received a citation. In FY13 Variety Plus, 135 Nashua Road, The Deli Mart, 258 Salem Road, Pace Energy, 261 Boston Road, Market Basket, 496 Boston Road, and Georgio's Liquors 446 Boston Road received a citation. The nature of the violations is generally an act of negligence and not of intent. Mr. Beauregard explained that studies show that every family in this state has a tax burden of seven hundred (700) dollars a year that is contributed to smoking and health related costs.

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

Mr. Reader asked how much do the cities and town get from the tax money that is contributed.

Mr. Beauregard replied that the town does not get anything.

Mr. Wilson replied that it all goes into the State's general fund.

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

Mr. Berube stated that he has reviewed the letters and heard testimony from the retailers and is in agreement of supporting the proposed regulations as they are currently proposed. I do not recommend

any changes.

Mrs. O'Rourke asked the Board Members if they were comfortable with adopting the proposed Tobacco Control Regulations.

Mrs. Giroux made a motion to adopt the proposed Tobacco Control Regulations.

Mr. Kane seconded. So voted unanimously.

Mr. Beauregard suggested that the Board should set a date when the Tobacco Regulations would go into effect.

Mrs. Giroux made an amendment to the motion to adopt the Tobacco Regulations effective as of July 1, 2013.

Mr. Kane seconded the amended motion. So voted unanimously.

Someone in the audience asked who will be enforcing the Tobacco Regulations.

Mr. Berube replied the Board of Health Agents or the Healthy Communities Tobacco Control Program will enforce these regulations.

Mrs. O'Rourke stated the last regulation is regarding the Keeping of Hens.

Mr. Berube stated that in 2011 Town Meeting passed an amendment to the Zoning By-Laws allowing the Keeping of Hens. Prior to that the keeping of livestock was not permitted. Mr. Berube explained that it took a great deal of time and research in order to write these regulations. These regulations emphasize the use of Best Management Practices (BMP's) as suggested by the Massachusetts Department of Agricultural Resources. These regulations are written to ensure that anyone keeping hens will be a good neighbor so that the Health Department does not get inundated with nuisance calls.

Mrs. O'Rourke asked can you raise turkeys.

Mr. Berube replied no.

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

The Board Members did not have any questions.

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

Joanne Murphy, 59 Andover Road, identified herself. Ms. Murphy asked when will the Keeping of Hens regulations go into effect. I would like to apply for a permit so that I can start to build a chicken coop as soon as possible.

Mrs. O'Rourke asked is the Building Inspector going to determine what size chicken coop will be needed.

Mr. Berube replied the Building Department will not determine what size the structure should be but the applicant may have to apply for a building permit to build a coop.

Town Counsel explained if it is determined to be a structure, a building permit would be needed.

Mrs. O'Rourke asked isn't a chicken coop considered to be a structure.

Town Counsel replied not if it is just posts and chicken wire. However, if it has a roof, walls and supports then it would be considered a structure.

Mr. Berube explained that when he talked to the Building Commissioner he indicated that a building permit would be required.

Mrs. O'Rourke asked when Ms. Murphy will be able to apply for a permit from the Board of Health.

Mr. Berube replied if the regulation is adopted tonight once they are published in the newspaper they become effective.

Mrs. Giroux suggested that the Keeping of Hens Regulation be effective July 1, 2013. Mrs. Giroux commented that the Board should be consistent with the other regulations.

Mrs. O'Rourke informed Ms. Murphy that the Board would like to be consistent therefore all the proposed regulations will be effective July 1, 2013.

Ms. Murphy asked if she would have to wait until July 1, 2013 to build a chicken coop.

Mrs. O'Rourke replied that you can do all the prep work and put up the coop, however you cannot purchase the chickens until July 1, 2013.

Mrs. Giroux made a motion to have the new Practice of Bodywork Therapy and Keeping of Hens Regulations and the revised Tobacco Control Regulations become effective July 1, 2013 so that there will not be any confusion.

Mr. Grady seconded. So voted unanimously.

Mrs. Giroux made a motion to adopt the Keeping of Hens Regulations effective July 1, 2013.

Mr. Kane seconded. So voted unanimously.

8:00 p.m. MWS Co. Limited Partnership – Sterling Road – Continued Hearing for Stormwater Management Approval

Mrs. O'Rourke stated the last item on the agenda is MWS Co. Limited Partnership, Sterling Road continued hearing for Stormwater Management Approval.

Gregory St. Louis, Project Engineer provided the Board with a large scale drawing of the proposed project to be located at Rear Sterling Road.

Gregory St. Louis, Project Engineer, Beals Associates, on behalf of Middlesex Gases and Technology identified himself. Mr. Louis explained that he met with the Board at the Board of Health meeting held on March 4, 2013. Prior to that Beals Associates met with the Board of Health and BETA Group on March 1, 2013 and at that time we submitted all the changes to BETA Group regarding the stormwater management facilities. Since that time we have met with the Planning Board and Emergency Services for the town. A couple of minor changes have occurred as part of that process including the stabilization for the cut slope may not be required to be all trap rock which will improve the stormwater calculations making the slope more conservative. All the changes were submitted to the Board at the last meeting. BETA Group has provided a letter, dated March 27, 2013 in which we have addressed all the comments to date. Mr. St. Louis stated that he would answer any questions that the Board may have.

Mr. Berube explained that Matt Crowley from BETA Group is present to summarize BETA's report and answer any of the questions that the Board may have.

Matt Crowley, Professional Engineer with BETA Group, identified himself. Mr. Crowley explained that BETA Group has provided peer review services for the Board of Health and the Planning Board for the Rear Sterling Road project. We submitted comments on February 11, 2013 and March 8, 2013. In the letter dated March 27, 2013 we summarized our comments, responses and Beals Associates responses. Beals Associates has satisfactorily addressed all of our comments. Mr. Crowley explained some of the major issues that needed to be addressed by Beals Associates. The first one is to revise the rainfall data to reflect the Northeast Regional Climate Center (NRCC) values. The second is to provide a four (4) foot separation from the bottom of the infiltration basins to the groundwater table. The third is to add some additional catchment at the entrances and exits of the facility to ensure that no runoff from the site is going onto Sterling Road south and causing problems to any of the adjacent properties. The fourth is to have the catch basins connected to a drain manhole and provide sediment forebays at the infiltrations basins. We requested that the rooftop runoff be separated into a perforated pipe system. The applicant addressed that concern and the issue was resolved. All of the changes were relatively minor. They are in full compliance of the Stormwater Management Standards. We requested that a Spill Kit is maintained on site during construction and occupancy in case of a ruptured automobile gas tank or oil leak. Some test pits and borings were performed on the site and the data indicated that there

is no ground water within two (2) feet of the first floor elevation in accordance with the Stormwater By-Law. They have addressed and resolved all the items that we requested. Most of the conditions are standard except that they must maintain a Spill Kit on site at all times and the applicant shall submit a Stormwater Pollution Prevention Plan (SWPPP) and a copy of the Environmental Protection Agency (EPA) Notice of Intent to the Board of Health for review and approval at least fourteen (14) days prior to beginning construction.

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

The Board Members did not have any questions.

Mr. Berube stated that Matt Crowley has covered all concerns and issues and how Beals Associates has addressed them. Therefore, he did not have any comments.

Mr. Kane made a motion to grant the Stormwater Management Approval for the construction of a commercial building for a specialty gas storage facility on Sterling Road based on the following findings of fact and pursuant to the following conditions:

FINDINGS OF FACT

- 1) The work described in the applicant's request is within an area subject to protection under the Billerica Health's Rules and Regulations, Chapter 6 inclusive.
- 2) The Board of Health conducted a public hearing on March 4, 2013 and properly notified abutters in accordance with Billerica Health Regulations, Chapter 1, Section 1.2.007.
- 3) The applicant proposes to construct a new 36, 400 square foot building, parking and loading areas and a stormwater management system on an undeveloped site. The project proposes to clear cut the site, perform major earthwork operations and render the majority of the site impervious.
- 4) The project was reviewed by Phil Paradis, Jr. of BETA Group, Inc., the Board of Health's Consulting Engineer, for compliance with applicable drainage regulations.
- 5) The Board of Health will impose reasonable conditions to ensure the project is constructed in accordance with approved plans.
- 6) 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, 3, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 22, 23, 24, 25, 26, 27, 28 and 29 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 Beals Associates, Inc. dated January 10, 2013 and revised to March 4, 2013 and stamped by Gregory M. St. Louis RPE #48706.
- B) If dewatering is determined to be necessary during work, the applicant shall submit a dewatering plan to the Conservation Department and Board of Health for review and approval prior to any dewatering activity occurring;
- C) The owner shall maintain maintenance records for the Stormwater Management Operations and Maintenance in accordance with the approved plan and provide them to the Board of Health and/or Conservation Commission upon request.
- D) The applicant shall submit a Stormwater Pollution Prevention Plan and copy of the EPA Notice of Intent to the Board of Health for review and approval at least fourteen (14) days prior to beginning construction.
- E) The owner shall maintain a spill kit (PIG® Hazmat Spill Kit #64CRSC or approved equivalent) on-site at all times. All spills of oil and/or hazardous material shall be reported to MassDEP, the Board of Health and/or other municipal agencies in accordance with 310 CMR 40.0000 (Massachusetts Contingency Plan).

Mr. Reader seconded. So voted unanimously.

Open Microphone

Mrs. O'Rourke asked if anyone was present for open microphone.

No one was present for open microphone.

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

The Board adjourned at 9:30 p.m.

Respectfully submitted,

Sandra Giroux
Secretary

Joanne M. White
Recording Clerk