

**BOARD OF HEALTH MINUTES**  
**October 7, 2013**

Marie O'Rourke, Chair, called the meeting to order at 7:00 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. Grady made a motion to accept the Meeting Minutes of September 9, 2013. Mrs. Giroux seconded. So voted unanimously.

**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 September are included in the Boards package.

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

Mr. Berube explained that Christine West, the Public Health Nurse has started the Flu Clinics. The first clinic was held at the Council On Aging on October 2, 2013. Approximately 330 shots were administered. The Flu Clinic for residents 18 and older is scheduled for Saturday, October 19, 2013 in the Town Hall Auditorium from 9:00 a.m. to 11:30 a.m. The AED/CPR refresher classes for Town Hall employees were held on October 1<sup>st</sup> and 3<sup>rd</sup>. The State contacted Christine and requested that she follow-up on two (2) out of State cases of Legionellosis disease that stayed at the Homewood Suites Hotel, 45 Middlesex Turnpike. Billerica also had two (2) residents with Legionellosis disease around the same time. Gary conducted a full inspection at the hotel and concluded that there was no correlation between the Billerica resident cases and the cases at the hotel. Christine sent a report to the State. Mr. Berube asked the Board Members if they had any questions regarding Christine's report.

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The Board Members did not have any questions regarding Christine West's report.

Mrs. O'Rourke stated the next report is from the Health Agent, Gary Courtemanche. Mrs. O'Rourke asked the Board Members if they had any questions regarding Gary Courtemanche's report.

Mr. Berube explained that Gary attended a meeting for the proposed development of an Extended Stay Hotel to be located at 616 Middlesex Turnpike (formerly the Irish American Club).

Mr. Berube explained that the suspension for the Pongal Restaurant was imposed from September 26th to September 30<sup>th</sup>. It appears that improvements have been made at the restaurant and the staff is keeping the establishment much cleaner.

Mrs. O'Rourke asked about Empire Recycling located at 36 Sterling Road.

Mr. Berube explained that the Department of Environmental Protection (DEP) was in Billerica to conduct a site visit at the new Waste Management facility, 72 Salem Road. We also took DEP to Parrell Products, 26 Cook Street, Charles George, 7 Republic Road and Empire Recycling. During the site visit at Empire Recycling we found some conditions that were in violation of the Order for Correction issued on May 31, 2013. They had some mechanical problems where recyclable material backed up. Cardboard was piled beyond the canopy. A pile of solid waste was dumped in front of the canopy. An Order for Correction was issued along with a one thousand (1,000) dollar fine.

Mr. Reader asked has the fine been paid.

Mr. Berube replied that Mr. Motzkin has indicated that he will pay the fine.

Mr. Grady asked what operation will be taking place at 7 Republic Road.

Mr. Berube replied that is going to be another recycling facility.

Mr. Berube asked the Board Members if they had any questions regarding Gary's report.

The Board Members did not have any questions.

Mrs. O'Rourke stated the last report is from the Health Agent, Phavy Pheng. Mrs. O'Rourke asked the Board Members if they had any questions regarding Phavy Pheng's report.

Mr. Berube explained that the Empire Recycling complaints correlate to the time when they were having a mechanical problem.

Mr. Kane asked at what level does the fee for complaints increase with multiple infractions.

Mr. Berube replied that it does increase, however it has been several months since we have had any noise complaints. This was an isolated incident. Mr. Berube explained that about the same time they had the mechanical problem the material backed up. They had to use their other baler and the only way they could use it was through the side door which was left open and generated the noise problem.

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

The Board Members did not have any questions.

### **Flu Clinic Schedule**

Mrs. O'Rourke stated the next item is the Flu Clinic Schedule.

Mr. Berube explained that the next Flu Clinic is Saturday, October 19, 2013 for Billerica residents 18 and older from 9:00 a.m. to 11:30 a.m. in the Town Hall Auditorium.

### **Adoption of the 2014 Board of Health Meeting Schedule**

Mrs. O'Rourke stated the next item is the adoption of the 2014 Board of Health Meeting Schedule. Mrs. O'Rourke asked the Board Members if they had any questions or concerns.

The Board Members did not have any questions.

Mr. Reader made a motion to adopt the 2014 Board of Health Meeting Schedule.

Mr. Grady seconded. So voted unanimously.

Mrs. Giroux requested again that the meeting time be changed to 7:30 p.m.

The majority of the Board Members voted against the change.

### **Mosquito Control Update**

Mrs. O'Rourke stated the next item is Mosquito Control Update.

Mr. Berube explained that Billerica has been in the low risk category for West Nile Virus (WNV) and EEE. There haven't been any reported cases of the WNV and EEE in Billerica.

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

### **Tobacco Control Update**

Mrs. O'Rourke stated the next item is Tobacco Control Update.

Mr. Berube explained that included in the Board's package is an email from Massachusetts Health Officers Association (MHOA) in regards to raising the minimum selling age of tobacco products from eighteen (18) to the age of twenty-one (21). Several communities have enacted the minimum age of twenty-one (21). Ron Beauregard, Healthy Communities Tobacco Control Program sent an email expressing his opinion regarding raising the minimum selling age of tobacco products.

A discussion was held amongst the Board Members and they agreed that it was not a good idea to raise the minimum selling age of tobacco products from eighteen (18) to twenty-one (21).

Mr. Berube stated that he has included a copy of the Medical Marijuana Regulations in the Board's package for them to review. Mr. Berube explained that his only concern is home cultivation.

The Board discussed the regulations and their concerns.

**7:15 p.m. Jennifer Finch – 9 Summer Street – Request for a Waiver of Regulations**

Mrs. O'Rourke stated the last item on the agenda is Jennifer Finch, 9 Summer Street, requesting a Waiver of Regulations.

Jennifer Finch (Holden), 9 Summer Street, identified herself and introduced her husband Ray Holden.

Mr. Holden explained that he wanted to construct an 8 foot by 12 foot shed. The structure will be built on pillars so that the water can flow through.

Mrs. Giroux asked if they were replacing the shed that is currently there.

Mr. Holden replied no, this shed will be adjacent to that shed. The new shed will conform to the property setbacks.

Mrs. O'Rourke asked why do you want to construct another shed.

Mr. Holden replied to increase storage space and have a workshop. Mr. Holden explained that he needs space to store tools that are currently being stored at his parent's house.

Mr. Berube explained that the entire lot is in the flood plain.

Mr. Kane asked what is going to be the floor level of the new shed.

Mr. Holden replied approximately three (3) to four (4) feet above the flood plain.

Mrs. O'Rourke explained that any electrical tools, petroleum and chemical products must be stored on shelves at least three (3) feet above the structure of the floor.

Mr. Berube explained that Mr. Holden has adequately addressed the situation. The shed is going to be constructed on pylons and is going to be two (2) to three (3) feet above the flood plain elevation.

Mr. Kane made a motion to grant a Waiver of Billerica Health Regulations, Chapter 5, Section 5.5.005 (1) to construct a shed within the flood plain at 9 Summer Street 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 Board of Health's Rules and Regulations, Chapter 5, Section 5.5.005(1).
- 2) The applicant proposes to construct a shed to be located next to an existing shed. The site falls within the FEMA and Green Engineering Flood Plains.
- 3) The shed will be constructed on concrete sonatube pylons to allow flood water to flow under the shed.
- 4) The applicant is aware that any petroleum and chemical products must be stored on shelves and mitigation measures must be employed during a flood to avoid any contamination of flood waters.
- 5) The Board of Health determined that the actions proposed by the applicant are adequate measures to protect public health and the environment and complies with the intent of the Board of Health Rules and Regulations. Further, approval of the applicant's request will not have a detrimental impact upon the flood plain.

**CONDITIONS**

Standard conditions number 4, 6, 10, 11, 12, 14, 15 and 25 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.
- B) Any petroleum and chemical products must be securely stored on shelves at least three (3) feet above the floor of the structure.

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 7:25 p.m.

Respectfully submitted,

Sandra Giroux  
Secretary

Joanne M. White  
Recording Clerk