

**BOARD OF HEALTH MINUTES**  
**March 10, 2014**

Sandra Giroux, Secretary, called the meeting to order at 7:00 p.m. Also in attendance were Daniel Kane, Mike Grady, Richard Berube, Director and Joanne White, Recording Clerk. Marie O'Rourke, Chair and Robert Reader, Vice Chair were absent

**ACCEPTANCE OF MINUTES**

Mr. Kane made a motion to accept the Meeting Minutes of February 10, 2014 as presented. Mr. Grady seconded. Three (3) voted in favor.

**BOARD OF HEALTH BUSINESS**

**Health Department Activity Reports**

Mrs. Giroux 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 February are included in the Board's package.

Mr. Berube stated the first report is from the Public Health Nurse, Christine West.

Mr. Berube explained that Christine continues with her routine activities and Communicable Disease follow-up/reporting with MAVEN. Christine is giving out the shingles vaccine to Billerica residents that are 60 years of age or older. Christine and Bill Laurendeau, Director of Emergency Management, attended a Medical Needs Sheltering Seminar in Chelmsford. This seminar is part of emergency planning for the Upper Merrimack Valley Public Health Coalition. The Board of Health will participate at the Health Fair on April 12, 2014. Mr. Berube asked the Board Members if they had any questions regarding Christine's report.

The Board Members did not have any questions.

Mr. Berube stated the next report is from Health Agent, Phavy Pheng.

Mr. Berube explained that all new information on Phavy's report is italicized.

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

Mr. Grady complimented on a nice job with the new format. The report is easier to read.

Mr. Kane asked about the pumping report that was not turned in from 78 Pinedale Avenue.

Mr. Berube explained that when Phavy was writing this report, the pumping receipt for February had not been turned in. Since that time Mr. Mitchell came to the office and turned in the pumping receipt for February. However, we are still missing the receipts for November and December 2013.

Mr. Kane asked Mr. Berube if he had any information from the court case that was held today March 10, 2014.

Mr. Berube explained that the judge was not willing to issue an order to vacate due to the weather conditions. The judge granted Mr. Mitchell until May 2014 to resolve the probate matter and address the outstanding violation before he issues a vacate order. This will allow Mr. Mitchell additional time to obtain the loan to pay off the other parties involved.

Mrs. Giroux asked about the results of the court hearing at 48 Pinewood Avenue.

Mr. Berube explained that the Clerk Magistrate granted the owner additional time to clean up their property and remove all the junk. The weather conditions have made it difficult to clean up and dispose of the debris.

Mr. Berube stated the last report is from Health Agent, Gary Courtemanche.

Mr. Berube explained that the Pongal Restaurant and Nana 7 continue to demonstrate improvements. The owner of Pro Fitness has purchased Mickee's On The Water. The new establishment will be named Playoffs. The establishment will be totally renovated and a new exterior grease trap will be installed.

Mrs. Giroux asked about the incident at Jade Pacific.

Mr. Berube commented that they voluntarily threw out all the egg rolls, so Gary could not validate the complaint.

Mrs. Giroux asked about the food code violations that were observed at the time of the inspection.

Mr. Berube explained that he does not know what the critical violations were. However Gary scheduled a follow up inspection for the next day and all the violations had been corrected.

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

The Board Members did not have any questions.

**Appointment of Town Clerk as the Burial Agent**

Mrs. Giroux stated that the next item is the appointment of the Town Clerk as the Burial Agent.

Mr. Berube explained the Board of Health's function as the local burial agent and how it began back in the late 1800's. Currently, the role of the Board of Health as the burial agent has been reduced to an administrative review of death certificates for completeness. In the second quarter of 2014, Massachusetts will transition the current paper death certificate process to an Electronic Death Registration System (EDRS). The new EDRS will benefit all partners in the death certificate process, save time, improve the accuracy of death certificates, improve the timeliness of the availability of data and prevent fraud. Once the system becomes electronic it will just be a duplication of effort on the part of the Board of Health and the Town Clerk's Office. I have discussed the EDRS process with the Town Clerk, Shirley Schult and she is willing to become the primary burial agent for the Town of Billerica. It will also become more difficult for the Board of Health office to collect the burial permit fee because the funeral directors will not be coming to the Board of Health office for a burial permit. The system will be streamlined and all the information will go directly to the State. I propose that the Board designate Town Clerk, Shirley Schult as the primary burial agent when the State transitions to the EDRS.

Mrs. Giroux asked the Board Members if they had any questions.

The Board Members did not have any questions.

Mr. Grady made a motion to appoint the Town Clerk, Shirley Schult as the primary burial agent for the Town of Billerica when the State transitions to the Electronic Death Registration System.

Mr. Kane seconded. So voted unanimously.

**7:15 p.m. Town of Billerica – 2014 Roadway Management Project – Request Waiver of Regulations**

Mrs. Giroux stated the next item on the agenda is the Town of Billerica, 2014 Roadway Management Project, requesting a Waiver of Regulations.

Ms. Conway provided the Board Members with large scale drawings of the proposed 2014 Roadway Management Project.

Kelley Conway, Town Engineer for Billerica, identified herself. Ms. Conway explained that the Roadway Management Project is our annual paving program. We are requesting a Waiver of Regulations for work within the Green Engineering Flood Plain (GEFP) and its buffer zone and to adjust the flood plain elevation by three (3) feet along the Concord River on River Street. The proposed work is necessary to maintain roads and to address pedestrian safety issues. The project consists of paving and/or sidewalk improvements on several roads. The roads that will be paved are in the Bridle Road neighborhood and a section of River Street from Bridle Road up to the entrance of the Parker School. Work will consist of paving the existing roadways and sidewalks with some minor grading at the edges of the roadway to provide a smooth transition to the new work. We are proposing some minor drainage improvements as part of the project. There is an existing drainage issue, some ponding of water on Magnolia Avenue that happens in that area and we are proposing to install an infiltration area off the edge of the road. A few years ago drainage was installed on Freedom Way, the plan is to extend the drainage from Freedom Way to Applewood Avenue, Woodlawn Avenue and New Foster Road to resolve a drainage issue in that area. We will be installing a sub drain pipe to promote recharge and infiltration along the length of the pipe. We are proposing sidewalks on Charles Anna Lane and River Street east side of the bridge and at the intersection of Bridle Road near Tedeschi Foods, 1 Bridle Road. Ms. Conway pointed to the plans and explained the areas where the work would be done. The work on Applewood Avenue and Woodlawn Avenue is located within the 100 foot buffer zone to the GEFP. Work is also being proposed within the GEFP on Basswood Avenue, Baniulis Road, Meadow Glen Road, Old Treble Cove Road, Treble Terrace and River Street. The work on Meadow Glen Road and River Street is also located within the FEMA Flood Plain. There will be a 1-1 slope on either side of the roadway with a vegetated slope treatment. Ms. Conway pointed to the plans and explained the work and the flood plain areas where the work would be done. The project will not result in the loss of flood storage capacity nor will it cause an increase in flood stage or velocity. Ms. Conway stated that she would answer any questions that the Board may have.

Mr. Kane asked about the area that will decrease the level of the flood zone.

Mr. Berube stated that (Board of Health Rules and Regulations) Section 5.5.005 (8) authorizes the Director to adjust the Green Engineering Flood Plain by three (3) feet which is a more realistic representation of where the Flood Plain is and brings the GEFP more in line with the FEMA Flood Plain.

Mrs. Giroux asked will the compensation be equally adjusted on both sides of the road.

Ms. Conway replied yes. The compensation is at a lower elevation than we are filling so it is extra.

Mr. Berube complimented the Town Engineers office for doing a great job with the roadway management program. Meetings are held with the Board of Health and the Conservation Commission to discuss the project details. They are doing more than just paving the roads, they are addressing drainage

issues and making improvements to the stormwater management system. They are also identifying drainage problems and addressing them as well.

Mrs. Giroux commented that the reports from the engineering office are easy to read and understand.

Mr. Kane made a motion to grant a Waiver of Billerica Health Regulations, Chapter 5, Section 5.5.005 (1) (2) for the 2014 Roadway Management Project to allow the rehabilitation of several streets in Billerica and associated drainage system improvements within the flood plain based upon the following facts 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 purpose of the project is to rehabilitate the deteriorating pavement of several streets in Billerica and provide drainage improvements to roads that flood during storm events. Some of the work includes the paving of gravel roadways to improve conditions that adversely impact resource areas including the flood plain. The majority of the proposed work is outside of the flood plain. However, work located on portions of River Street, Meadow Glen Road, Old Treble Cove Road, Baniulis Road, Basswood Avenue, Treble Terrace, Woodlawn Avenue and Applewood Avenue are within or in proximity to the Green Engineering Flood Plain and or FEMA Flood Plain.
- 3) The project will improve safety for motor vehicle and pedestrian traffic as well as upgrade stormwater management. The proposed work will not adversely impact the flood plain. With the exception of the proposed work on River Street, alterations caused by the paving operations will be temporary and all disturbed areas will be restored to preconstruction grades to the extent practicable and stabilized. Compensatory storage will be provided for alterations to the Flood Plain along River Street.
- 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, 10, 11, 12, 13, 14, 15, 24 and 25 in accordance with the Board of Health Regulations and Special Conditions:

- A) Submit a final detailed report on the work completed for the 2014 Roadway Management Program.

Mr. Grady seconded. So voted unanimously.

**7:25 p.m. West Side Café & Bakery – 240C Nashua Road – Request Waiver of Regulations**

Mrs. Giroux stated the last item on the agenda is West Side Café & Bakery, 240C Nashua Road, requesting a Waiver of Regulations.

Joseph Zdanowicz identified himself. Mr. Zdanowicz explained that he is requesting a Waiver of Regulations for the exterior grease trap at 240C Nashua Road. The proposal is to open a café for breakfast and lunch and also include a bakery. We will probably not be making donuts like previously because the equipment is broken. We will not be cooking or sautéing any food that would create grease. We have owned a restaurant in Maine for 10 years and a bakery for 4 years. Our menu will mainly consist of salads and grilled breakfast sandwiches. We will also have baked goods like muffins and sweet breads. Our menu will be similar to what has been prepared at this establishment in the past. We will manage the grease trap according to the Health Department standards.

Mr. Berube explained that waivers have been granted to prior establishments in this location and there have not been any problems. There is not going to be any changes to the establishment or the menu. Gary recommends that if the Board approves the waiver that the conditions relative to wastewater testing and Best Management Practices for grease removal be included in the approval letter.

Mrs. Giroux asked the Board Members if they had any questions.

The Board Members did not have any questions.

Mrs. Giroux explained that if there is a problem with the interior grease trap then you will be required to install an exterior grease trap immediately.

Mr. Grady made a motion to grant a waiver of Billerica Health Regulation, Chapter 5, Section 2.2.001 that requires the installation of an exterior grease trap to serve the proposed food service establishment, West Side Café & Bakery to be located at 240C Nashua Road 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 2.2.001.
2. The applicant proposes to open a sixteen (16) seat restaurant and bakery in the location formerly

occupied by Christine's Donuts. There will be no significant changes to either the equipment or menu from the previous food service establishment other than the reduction or elimination of donut production.

3. The applicant proposes to use the existing alternative grease recovery unit (GRU) located within the food service establishment. The interior grease recovery units will be monitored and cleaned every month. A maintenance record shall be kept and made available for inspection by the Board of Health.
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 10, 14, 15 and 25 in accordance with the Board of Health Regulations and Special Conditions:

- A. These conditions, imposed by the Board of Health, cannot be changed without the written approval by the Board of Health and only after a proper public hearing is held.
- B. The applicant shall provide a copy of a maintenance agreement with a qualified service company to pump and maintain the interior grease traps every month or more often to ensure proper functioning of the grease recovery system. The applicant shall keep all pumping and maintenance records and make them available for inspection by the Board of Health.
- C. The food service establishment (FSE) shall work with the Board of Health to implement Best Management Practices (BMP's) to prevent or reduce the discharge of Fats, Oil and Grease (FOG) and to the building drain and the sewage disposal system. The FSE shall train the staff to ensure that the BMP's are followed. The owner and employees of the FSE shall sign an acknowledgement of BMP's for Food Service Employees and submit the acknowledgements to the Board of Health.
- D. This waiver shall be subject to periodic review by the Board of Health to ensure compliance with applicable rules and regulations.
- E. The Board of Health in conjunction with the Town of Billerica Department of Public Works (DPW) Wastewater Division shall periodically monitor the grease discharge from said Food Service Establishment for any violations of the Town of Billerica Sanitary Sewer Rules and Regulations and the Board of Health Rules and Regulations. All costs associated with the monitoring shall be paid for by the applicant.

- F. In the event of a grease blockage or other significant violations relative to the maintenance of the grease recovery system, this waiver shall be **immediately** revoked. The applicant shall be required to install an exterior grease trap to serve the food establishment. The exterior grease trap shall be designed and constructed in accordance with the State Environmental Code, Title 5.
- G. This waiver cannot be transferred from one person to another person, from one food establishment to another or from one type of operation to another.
- H. Any changes or expansion of the food service operations (e.g. menu change, etc.) requires prior approval from the Board of Health.

Mr. Kane seconded. So voted unanimously.

**Open Microphone**

Mrs. Giroux asked if anyone was present for open microphone.

No one was present for open microphone.

Mr. Kane explained that he has received three (3) complaints from residents in his neighborhood that need to be addressed. The first complaint is from 25 Yale Street and 11 Water Street. There is trash in the yard, trailers and debris that need to be removed. The other complaint is regarding roosters at 409 Treble Cove Road.

Mr. Kane made a motion to adjourn. Mr. Grady seconded.

The Board adjourned at 7:35 p.m.

Respectfully submitted,

Sandra Giroux  
Secretary

Joanne M. White  
Recording Clerk