



TOWN OF BURLINGTON, MA
BOARD OF HEALTH
MINUTES
TOWN HALL MAIN MEETING ROOM

TUESDAY, FEBRUARY 28, 2023

Board Members Present: Ed Weiner, PhD, Chairman; David McSweeney, Vice Chairman; Gayle Damore; Andrea Sheehan; and Maribeth Welch

Board Members Absent: None

Staff Members Present: Susan Lumenello, REHS/RS, CHMM, Director of Public Health, and Christine Mathis, Environmental Engineer

I. Open Meeting/Pledge of Allegiance

Dr. Weiner called the Board of Health meeting to order at 7:00 PM.

The Pledge of Allegiance was recited.

II. Approval of Minutes:

MOTION: Mr. McSweeney made a motion to approve the Board of Health minutes of December 13, 2022. The motion was seconded by Ms. Welch and voted 5-0-0.

MOTION: Mr. McSweeney made a motion to approve the Board of Health minutes of January 10, 2023. The motion was seconded by Ms. Sheehan and voted 4-0-1. Ms. Welch abstained from voting.

MOTION: Ms. Welch made a motion to approve the Board of Health subcommittee minutes of January 17, 2023. The motion was seconded by Ms. Sheehan and voted 5-0-0.

MOTION: Ms. Welch made a motion to approve the Board of Health subcommittee minutes of January 18, 2023. The motion was seconded by Ms. Sheehan and voted 5-0-0.

MOTION: Ms. Welch made a motion to approve the Board of Health subcommittee minutes of February 6, 2023. The motion was seconded by Ms. Sheehan and voted 5-0-0.

III. Citizen's Time:

There were no citizen's coming forward.

IV. Chairman's Report:

Dr. Weiner stated that this Board has been extremely busy over the past month with Supervisory Nurse interviews, subcommittee meetings, proposed regulations / amendments, a presentation to the Chamber of Commerce, and the kick-off meeting for the formalization of the Tri-Ton Public Health Excellence Grant



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with Lexington and Wilmington. Dr. Weiner congratulated Ms. Welch who will remain on the Board for another three years, and wished the Town of Burlington a happy 224th birthday.

V. Permits:

ProtaGene, 4 Burlington Woods Drive, Renewal of Permit with 2 new protocols

Dr. Chris Barton, of ProtaGene, and Brandon Linz, of Triumvirate Environmental, appeared before the Board.

Ms. Mathis stated that ProtaGene was granted a permit by this Board in May 2022. At that time, they were approved to do one protocol using a Risk Group 3 Agent (Lentivirus) in a BSL-2 approved laboratory. They are proposing to renew that protocol. They are also looking to add a second protocol which is of the same name but it's focusing on proteins (not genes). That particular protocol does not require approval because it did not require approval from the IBC. The third protocol is an analysis of botulinum neurotoxin protein which will not include any RDNA manipulation, however, it is a Risk Group 2 Agent as well as a Select Agent under the U.S Department of Health and Human Services. The newly proposed work on Botox will be done in a BSL-2+ laboratory with enhanced security measures. The Botox itself will be stored in a lock box.

Dr. Barton stated that ProtaGene is a company that is focused on analytical development work. When pharmaceutical and biotech companies develop new drugs, we develop approaches to test those drugs, to check that they're safe and efficacious, to check that they have the right identity, and check if they have the right structure. We do this for a wide variety of different clients, and we don't manufacture drugs ourselves. We have four sites, with one of them in Burlington and the other three in Europe. Each of those labs has different areas of expertise and different regulatory standards. The lab in Burlington focuses on the manufacture of biologics and testing gene therapy agents.

Dr. Barton continued by stating that all of this work will be done in a BSL-2 lab within a controlled space. The laboratory itself is badge access controlled, we're not producing any agents on site (everything is testing), and the amount of material we ask from a client is a small volume. We have procedures in place for the destruction of material and removal of that material once it's been destroyed from our facility.

We have a protocol in place that all our scientists will be trained on before prior to starting work:

- PPE:
 - Double layer gloves, Face shield, Disposable Lab Coat, Closed Toe Shoes, Long Pants
- Best handling practices in hood (including lab partner for all work)
- Material inactivation:
 - All liquid waste kept in 1M sodium hydroxide (NaOH) for 20 days
- Waste disposal:



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- Inactivated solid waste will be disposed into biohazard waste and the inactivated liquid waste will be disposed into a biohazardous liquid container.
- Residual solid waste (i.e., lab coats) has a dedicated incineration waste stream.

We have in place a general safety program including an emergency action plan, chemical and biological safety trainings. We have a contract with an occupational health service for medical surveillance, post-exposure response, etc. Hard copies of training materials and safety manuals are present in the lab and office areas for easy access. All necessary warning signage and response information have been posted at multiple sites within the lab.

Ms. Lumenello stated for clarification purposes that they are here to renew a permit on the first protocol that was discussed and they're adding to that permit two additional protocols, and so, that would be three permit renewals with three protocols. We will need an updated biosafety plan with an update to the botulinum protocol that was discussed. Dr. Barton agreed.

Mr. McSweeney asked how many employees you have in your facility. Dr. Barton replied about 30 employees on site (including 18 scientists). Mr. McSweeney then asked how the facility was working out. Dr. Barton replied that in the first few months there were a number of glitches that have all been worked out, but it's working out very well now.

Mr. McSweeney asked if he had any experience with these new agents. Dr. Linz replied yes, I'm a registered biosafety professional with the American Biosafety Association and I'm a former responsible official for a select agent and toxin program utilizing botulinum toxin. Mr. McSweeney then asked what the biggest risk / biggest concern of would be working with botulinum. Dr. Linz replied that because they already receive an aqueous solution well below a lethal dose, the risks are minimal if not present at all.

Dr. Weiner stated that when he was taking a doctoral course a graduate student ingested botulinum and they had to fly him somewhere for the antitoxin and asked whether Mount Auburn Hospital or Leahy have any of that antitoxin. Dr. Linz replied that the instance you're talking about was an actual exposure event to the clostridium bacterium (the producing agent for the botulinum toxin). They're not working with any live biological agent, and hospitals typically don't carry botulinum toxin. Dr. Weiner then inquired about the BSL-2+ designation for lentivirus. Dr. Linz replied that the BSL-2+ designation is really for the botulinum toxin. We can safely handle lentivirus at BSL-2 because it's third generation. If we were dealing with a second generation, we might want a BSL-2+ designation and the facility could handle that because of negative airflow.

Phyllis Etsell – Ms. Etsell asked how is the research funded, and are there any security protocols for personnel (i.e., background checks). Dr. Barton replied that all of the work we do is paid for by our sponsors, which are almost exclusively pharmaceutical companies and biotech companies. I would have to get back to you on the specific nature of what we do for background checks as part of our interview process. All of the



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staff, however, do undergo training before they're able to work in our BSL labs. Additionally, for our botulinum work, there is a very limited number of staff who are trained for that, and no staff member can do that work unless they've completed the trainings.

MOTION: Mr. McSweeney made a motion to approve the renewal of the permit including two new protocols for ProtaGene at 4 Burlington Woods Drive. The motion was seconded by Ms. Welch and voted 5-0-0.

Dr. Weiner informed the applicants that you have received a notice that the Burlington Board of Health has put together a scientific and professional faculty and you will be invited. We would like to have as many people from the biotech community become part of this volunteer faculty in case we get questions from non-profit schools, churches, synagogues, mosques, etc.

VI. Hearing:

Proposed Regulations for the Storage & Disposal of Hazardous Materials

Ms. Lumenello stated that the Board of Health enforces Article 14: the control of toxic and hazardous materials bylaw, and the Board of Health hazardous building component management plan policy. The bylaw was first enacted in the 1980s and requires those storing any hazardous materials to pay a fee and register with the Board of Health. Registrants must adhere to the bylaw and undergo a yearly inspection. The Board of Health policy requires that commercial renovation and demolition projects properly dispose of all hazardous materials before commencing work. This proposed regulation combines both the bylaw and the policy which are outdated. The purpose of this regulation is to establish plans and procedures for the safe management handling and disposal of hazardous materials.

Instead of a registration, this regulation requires that a permit be obtained. The bylaw requires that any institution storing, processing, generating, or using hazardous materials in a cumulative quantity of 220 pounds (or 25 gallons) or more and/or storing, processing, generating, or using any extremely hazardous substance above its threshold planning quantity listed by the Environmental Protection Agency. Similar to the biological safety regulations, any property owner that is planning to lease to a tenant who's storing hazardous materials must notify the Board of Health in writing no less than 30 days prior to occupancy. Any institution undertaking the demolition of a commercial or residential building, or the renovation of a commercial building must obtain a permit from the Board of Health. It allows the Board of Health by a majority vote to require the collection of soil groundwater samples at any location where hazardous materials have been stored or any property where contamination may exist. Exemptions include retail establishments; fuel oil, propane, and LPG tanks; domestic cleaners; primary healthcare centers / clinical laboratories; refrigerants other than ammonia or LPG; biological waste (regulated by MA DPH); and swimming pools



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(under MA DPH). We already have a permit process for swimming pools, so we're just going to make sure that when we do the swimming pool inspections, that the inspectors are trained in what to look for with storing swimming pool chemicals and do that during the inspection.

Regulation requirements for storage include the following:

- Spill control plan
- Safety data sheets
- Storage to prevent contamination of air, groundwater, and surface water which will minimize accidental release
- Product tight containers on an impervious surface
- Secondary containment
- Separation of incompatible materials
- Proper labeling
- UST compliance with MGL 310 CMR 80.00

Mr. McSweeney stated that the biggest hurdle was defining what a hazardous material was, not necessarily what the substance was, but what quantity / weight would designate one.

Douglas MacKinnon – Mr. MacKinnon asked how the change would affect the average homeowner or is it more commercially driven. Ms. Lumenello replied that it's more commercially driven (i.e., businesses that store hazardous materials). The only residential effect it would have, I believe, would be on demolition. For example, if you were doing a demolition, you would then have to get a permit from us to make sure that your oil tank or hazardous materials were removed off the property before the demolition.

MOTION: Mr. McSweeney made a motion to approve the Burlington Board of Health Regulations for the Storage & Disposal of Hazardous Materials with the addition of batteries to the exemption(s) section (7.c). The motion was seconded by Ms. Welch and voted 5-0-0.

Proposed Amendments to Board of Health Fee Schedule

Ms. Lumenello stated that what we're proposing is to change from the number of the seats to the food process type because the number of seats in an establishment does not reflect the complexity of an operation. Process One is food preparation with no cooking and no trips through the temperature danger zone. Process Two is food preparation for same-day service with one trip through the temperature danger zone (i.e., hot holding). Process Three is complex food preparation with two or more trips through the danger zone. For retail food, we removed the square footage and made all retail food a \$100 fee, and added food market – one department at \$200 and two or more departments at \$600 (i.e., a supermarket). Currently, we don't have any fees for temporary food events, and we have a lot of temporary food events (i.e., Taste of Burlington,



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Farmers Market, Gluten Free Festival, etc.). What we're proposing is if you have a temporary food event and you organize it and you have more than three vendors, it's a \$100 fee. If you're a temporary food vendor attending an event, it's a \$25 fee. A seasonal event organizer whose event will run for more than a month will have a \$150 fee.

Ms. Sheehan asked if this is a new category that we never used to charge a fee for in the past. Ms. Lumenello replied yes.

Dr. Weiner commented that potluck dinners do not fall under these categories.

Ms. Lumenello stated that we're adding a fee (\$150) for new Swimming Pool Reviews, and we're increasing Outdoor and Indoor Pool permits from \$100 to \$150. Dr. Weiner clarified that the pool permits are commercial (or semi-public, like a hotel or a condominium) and they're not residential. Ms. Lumenello continued by stating that we removed criteria for generator status, storage amounts, and USTS, and added \$150 for Hazardous Materials Storage Permits, and added \$50 for commercial/residential demolition permits and \$25 for commercial renovation permits. We added an asterisk waiving fees for non-profit organizations. These fees are more reflective of the complexity of operations, reviews, and inspections. The overall effect of fee changes will vary for individual food establishments. However, the overall change is an increase of \$2,900. Approximately 37 hazardous materials are exempted under the new regulations (121 last year to 84 this year).

Ms. Welch asked if you're inspecting demolition of residential, you wouldn't inspect if they were demolishing a swimming pool. Ms. Lumenello replied that's under the Building Department. We're looking for hazardous materials.

Mr. McSweeney asked if there is any one business industry that's going to look at this and voice concern over it. Ms. Lumenello replied I don't think so, because if you had no underground storage tanks you would have paid \$100 in the past, now you're paying \$150.

Ms. Welch asked whether the food establishments received a copy of the new fee schedule. Ms. Lumenello replied not until you pass it.

MOTION: Ms. Welch made a motion to approve the Proposed Amendments to Board of Health Fee Schedule. The motion was seconded by Ms. Damore and voted 5-0-0.

VII. Discussion:

Public Health Excellence Grant Inter-Municipal Agreement

Ms. Lumenello stated that the Blueprint for Public Health Excellence Report came out and Dr. Weiner and I updated the Select Board on some of the recommendations: strengthen collaboration; acquire, store, and use



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data to improve population health; make training available and accessible; and commit Commonwealth resources for local public health.

Ms. Lumenello highlighted that the agreement requires an Advisory Board which will consist of myself, the directors from both Wilmington and Lexington, and our Shared Services Coordinator. This Board will meet at least quarterly.

Dr. Weiner updated the Board that there was a large storage room next to the Board of Health and I petitioned Mr. Sagarino, and he agreed to ask the Senior Center to vacate the room.

MOTION: Mr. McSweeney made a motion to move forward with the Public Health Excellence Grant Inter-Municipal Agreement. The motion was seconded by Ms. Welch and voted 5-0-0.

MOTION: Ms. Welch made a motion to appoint Ms. Lumenello, Director of Public Health, as the Program Manager. The motion was seconded by Ms. Damore and voted 5-0-0.

VIII. Staff Reports:

Environmental Engineer

Ms. Mathis presented her report.

- Reviewed and issued Biological Safety Permits for 10 facilities (including ProtaGene)

Ms. Welch and Ms. Damore asked about the investigations regarding residential drainage systems. Ms. Mathis replied that I spoke to the Director and Chairman about my findings on that and I went out a couple of times to look at what was going on, but my conclusion was that it was not the circumstances under which you could do an assessment of the system that was put in because the ground was frozen.

MOTION: Ms. Welch made a motion to approve the Environmental Engineer's report. The motion was seconded by Ms. Sheehan and voted 5-0-0.

Director of Public Health

Ms. Lumenello presented her report (includes the Health Agent; Associate Director of Public Health; and Associate Health Inspector's reports).

- Applying for another grant for tobacco compliance

Dr. Weiner inquired about the Health Fair. Ms. Lumenello replied that we received a few applications and we're going to start looking at them within the next week. We did decide on the high school as the location for the fair.



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Ms. Welch asked about Ms. Johnson's Certification Food Protection course and exam. Ms. Lumenello replied that we got very little interest from our food service establishments to sign up, which was disappointing because they all need ServSafe certification, and we're providing it to them at a reduced rate (only making them pay for the textbook and exam).

Mr. McSweeney asked if Lifetime Fitness has addressed the suspension that's coming up. Ms. Lumenello replied that they have, and they've gotten quite a few people trained since the Board meeting.

MOTION: Ms. Sheehan made a motion to approve the Director of Public Health's report (includes the Health Agent; Associate Director of Public Health; and Associate Health Inspector's reports). The motion was seconded by Ms. Welch and voted 5-0-0.

IX. Adjourn:

MOTION: Ms. Welch made a motion to adjourn the Board of Health regular meeting at 8:39 PM. The motion was seconded by Ms. Sheehan and voted 5-0-0.

*Respectfully Submitted by Eric Bergeron,
Recording Clerk*



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DOCUMENTS REVIEWED AT MEETING – TUESDAY, FEBRUARY 28, 2023

I. Open Meeting/Pledge of Allegiance/Agenda

II. Approval of Minutes: 12/13/22, 1/10/23, 1/17/23 subcommittee, 1/18/23 subcommittee, and 2/6/23 subcommittee

III. Citizen's Time: None

IV. Chairman's Report: None

V. Permits:

ProtaGene, 4 Burlington Woods Drive, Renewal of Permit with 2 new protocols

2/28/23 Biological Safety Permit Application prepared by M. Greene; 1/18/23 Biological Safety Permit With Facility Protocol; 3/23/22 Institutional Biosafety Committee (IBC) and Minutes; 2/28/23 ProtaGene presentation to Board of Health; 2022 Approved Protocols (ProtaGene) rDNA Project Registration Form (2022-1); rDNA Project Registration Form (2023-1); Biological Materials Registration and Risk Assessment

VI. Hearing:

Proposed Regulations for the Storage & Disposal of Hazardous Materials

2/28/23 S. Lumenello presentation: Proposed Regulations for the Storage & Disposal of Hazardous Materials; Burlington Board of Health Regulations for the Storage & Disposal of Hazardous Materials; Appendix A to Part 355 – List of Extremely Hazardous Substances and Their Threshold Planning Quantities (Title 40: Protection of Environment; Environmental Protection Agency); 2/14/23 *Daily Times Chronicle*; 1/23/23 S. Lumenello memo

Proposed Amendments to Board of Health Fee Schedule

2/28/23 S. Lumenello presentation: Proposed Amendments to Board of Health Fee Schedule; Burlington Board of Health Fee Schedule; Chapter 2 – The Process Approach

VII. Discussion:

Public Health Excellence Grant Inter-Municipal Agreement

1/11/23 S. Lumenello presentation: Public Health Excellence Grant Inter-Municipal Agreement

VIII. Staff Reports:

Environmental Engineer's Report; Director of Public Health's Report (includes the Health Agent; Associate Director of Public Health; and Associate Health Inspector's Reports)