**TOWN OF BOURNE**

**BOARD OF HEALTH**

**24 Perry Avenue**

**Buzzards Bay, MA 02532**

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**MINUTES**

**July 30, 2014**

**Members in attendance: Kathy Peterson, Chairman; Stanley Andrews, Vice-Chairman; Donald Uitti, Secretary; Galon Barlow; and Kelly Mastria**

**Support Staff in attendance: Cynthia Coffin, Health Agent**

**Meeting was called to order at 7:00 P.M by Chairman Kathy Peterson.**

**Although Harvest Power was the first item on the agenda, Attorney Steven Torres agreed to let 35 Maryland Avenue be heard as the first item.**

**1. 35 Maryland Ave- Bracken Engineering for 35 Maryland Ave, LLC –Request variances from the 150 foot setback for a demolition and rebuild –** Mr. Bracken was present for the discussion and presented the green certified mail cards to Ms. Coffin. Mr. Bracken stated that the applicants for the project are the prospective owners, the Gilberts. They are going thru the process prior to the purchase. The existing dwelling is 5 bedrooms, located on Phinney’s Harbor. The current septic system is located behind the house towards the water. The project is to raise the existing dwelling and construct a new dwelling with a new septic system. The proposed dwelling will be four bedrooms. The site has several resource areas, high water mark, coastal beach, coastal bank, and almost the entire property is located within a coastal flood zone. The proposed design includes a Microfast denitrification system to a pump chamber which discharges to a drip irrigation field system. This system will be located at the highest point of the lot closest to the road. The test pits on the property indicate a groundwater elevation around elevation 1.0.

The bottom of the field is about elevation 12 so there is a substantial separation to groundwater, i.e. about 11 feet. The nitrogen loading calculations show that the existing property has a nitrogen loading rate of 7.2 ppm and a proposed nitrogen loading level of 3.9 ppm, which is a 46% reduction. There are increasing the size of the house and the proposed total living area is 4673 square feet. The official variance request is for a 57 foot variance from the 150 foot required setback of the soil absorption system to the coastal bank. This is the largest variance based on the other resources delineated. Mr. Barlow asked if the existing house was seasonal and Mr. Bracken replied that it is presently a year round house and has heat. Ms. Coffin asked what the setback line was on the plan and Mr. Bracken stated that it was not on the plan but it was the same point that was shown on the house setback to the bank. Ms. Coffin also asked why pressure distribution was not part of the design as this is usually what the Board of Health requires to address virus attenuation. Mr. Bracken said that the drip irrigation system would be a type of pressure distribution. All of the lines fill up instantaneously. There is also a filter in the dosing box. Ms. Peterson asked how often that drip irrigation system would be checked and Mr. Bracken stated that it would be checked at the same time as the nitrogen removal system. Ms. Coffin stated that the maintenance inspections are required quarterly but that the influent and effluent sampling is twice per year for two years. **Mr. Andrews made a motion to approve the request for a 57 foot variance from top of coastal bank for 35 Maryland Avenue. The architecturals of record are dated received by the Board of Health on July 14, 2014 and drawn by Bracken Engineering. The site plan of record by Bracken Engineering is also dated received by the Board of Health on July 14, 2014. The approval includes adherence to the Board’s Alternative Maintenance and Testing Policy. Ms. Mastria seconded the motion. It was a unanimous vote.**

**2. Harvest Power—Discuss and possible vote regarding acceptance of process memorandum as submitted by Attorney Steven A. Torres of Pannone, Lopes, Devereaux & West dated July 9, 2014 –** Ms. Peterson stated that the Board did hear back from Attorney Troy but that it did take the Selectmen getting involved to finally get a ruling. The Board is confident that Condition X is not up for discussion and the Harvest Power lease does have to be approved by the Board of Health. The Board has always been of that impression. It took a long time and memos to get this done. That being said, Harvest Power wants to come in and meet with the Board of Health and tell the Board about the company. Attorney Torres will develop a list before the next week of the kind of questions that the Board of Health can ask. Ms. Peterson wanted to add that the Chairman and Vice Chairman of the Board of Selectmen really stepped up to get this ruling from Troy. Mr. Barlow stated that he had an issue with the process being called an approval process. He would rather that is just says a two step process. He does not like the word ‘approval’ being there. Attorney Torres restated that the process in the memo was fine and agreed upon by Town Counsel. This gets the Board to the first set of hearings that it will conduct. He has provided Town Counsel with the citations to the law and references to the Site Assignment regulations for the type of hearing to be held, which is to be approving the lease itself and Harvest Power as being the ones who can receive site control under that lease. He will provide general outline of areas that the Board of Health should inquire about during the hearing. It is up to the Board to how in depth the questions will be. He restated that he will provide an outline of the questions that would be in a standard procurement hearing to find someone who is an appropriate site manager or operator without actually approving the project. There will be a request for qualifications. There can also be sample questions for each area to be addressed. He would also like to make a request to Harvest Power for information before they actually appear before the Board at the hearing. Ms. Peterson stated that Dan Barrett was happy that the Board would be doing this. Mr. Torres said that the Board could authorize that the Chair send the request drafted by him to Harvest Power. He said that the request would be sent to Harvest Power to submit the information so that the Board could review it before the hearing. The Board of Health might want documentation on their corporate structure, shareholder reports, environmental compliance reports and the like. The Board can also get copies from Dan Barrett of the original proposal that speaks to Harvest Power’s actual qualifications, such as record of other projects, their environmental record, their bond capability; anything that speaks to their ability to manage a site like the present proposal. The Board cannot ask about the environmental pollutions or criteria for air emissions, how much leachate they will produce, or what surface and stormwater plans are going to be. It is proper to ask about other projects. The Board cannot talk about things that would be discussed during the site assignment process. The Board is not approving the proposal itself just Harvest Power’s ability to accomplish the site control. He reiterated that the approval of the lease is not an approval of the operation itself. Mr. Andrews asked if Mr. Torres would be present at the hearings with Harvest Power and he stated that he would be. Mr. Barlow had concern about an item at the site that is not owned by the Town. He is comfortable with the suggested two part review system. Ms. Peterson stated that Mr. Torres cannot attend the next meeting so when Harvest Power requests to be heard before the Board of Health she would like it to be August 18th or 20th. As a last resort they could be on the regular agenda on August 27th. Harvest Power still has to apply to the Board to be heard. Mr. Andrews said that it is important that the Board get the list of questions well beforehand. The Board would rather that the meeting with Harvest Power be separate from the regular Board meeting.

Ms. Coffin asked what the wording of that item would be and Ms. Peterson said that it would probably be a general presentation by Harvest Power. Ms. Peterson said that when Harvest Power contacts the office to set up a hearing, then Ms. Coffin should send a copy of the questions generated by Mr. Torres to Harvest Power. She should also send Mr. Barrett a copy. Mr. Mulvey, in the audience, asked what would happen if there was a dispute about the Harvest Power operation. Ms. Peterson stated that the Board of Health was not at this stage yet but when they are operating it will be under site assignment approved by the Board of Health. Ms. Peterson explained that the process will be a two stage process. During the first stage, the Board will evaluate Harvest Power’s suitability to operate at the site. The second stage will be the site assignment process where the Board will address the actual operation, the process, odor, and traffic issues. Ms. Peterson stated that at this point the Board is starting at square one with its review. Ms. Peterson asked if the Planning Board should be invited to the Board of Health meeting but the Board members generally agreed that the Planning Board should meet with Harvest Power on its own to address Planning Board issues. **Mr. Andrews made a motion to approve the memo as written up by Attorney Torres as long as all references to an ‘approval’ process are changed to an ‘evaluation’ process. Ms. Mastria seconded that motion. It was a unanimous vote.**

**3. Approve the minutes of April 9, 2014.**  Ms. Mastria asked if the Board had ever received the emergency notification protocol that was requested of Mr. Barrett at the April 9th meeting. The answer was no. The Board members agreed that Mr. Barrett should submit that protocol to the Board for discussion at the next meeting on

August 13th. **Mr. Uitti made a motion to approve the minutes of April 9, 2014.**

**Mr. Andrews seconded the motion. All were in favor except for Mr. Barlow who abstained as he was not at the meeting**.

**4. Approve the minutes of June 25, 2014.** **Ms. Mastria made a motion to approve the minutes of June 25, 2014. Mr. Barlow seconded the motion. All were in favor except for Mr. Uitti who abstained as he had not been at the meeting.**

**Mr. Andrews made a motion to adjourn. Mr. Uitti seconded the motion. It was a unanimous vote and the meeting adjourned at 7:45 P.M.**

Taped and typed by Cynthia A. Coffin, Health Agent

Kathleen Peterson \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Stanley Andrews \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Galon Barlow \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Kelly Mastria \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

cc Board of Selectmen/Town Clerk