**TOWN OF BOURNE**

**BOARD OF HEALTH**

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**MINUTES**

**August 27, 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; Terri Guarino, Health Inspector; Steve Torres, BOH Counsel**

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

**Ms. Peterson made a statement that there were two changes to the meeting’s agenda. Item #3, Pocasset Mobile Home Park, would not be discussed tonight but will be rescheduled and Item # 8 will not be heard at this time as the request was withdrawn.**

**1. Harvest Power – Continued from August 18, 2014—Discussion and possible vote on approval of lease under Condition X of Site Assignment ONLY –** Ms. Peterson stated that at the last meeting there had been a productive meeting with Harvest Power. After that meeting Attorney Torres looked at Harvest Power records that needed to remain confidential. Mr. Torres is at the meeting tonight to discuss his findings. Mr. Torres handed out an Outline of the process issues in Condition X and the operation issues under the Site Assignment. He wants to keep both items separate for discussion and action. He created a draft decision for the Board to review. If the Board is happy with his presentation then they can vote to adopt the recommendation of Special Counsel. There is a resolution available for that vote. The draft decision will be a hard copy of the recommendations, process, and findings made on behalf of the Board of Health. It will be presented to the Board tonight and then the document will be available for the Board to review and adopt at the Board’s discretion. The draft decision does not have to be adopted on the same evening as the vote on the transfer of premises described in the lease agreement. The Board’s vote of approval can be separate from adopting the formal decision. Attorney Torres stated that he will have copies for all the Board members. He stated that he would review the document and his findings. Some of the items will be read verbatim from the document. Mr. Barlow stated that he believes that the Board was not given enough time to ask questions. He thinks that this draft approval is coming too quickly and that the Board is being rushed. Ms. Peterson stated that what the Board is being asked to look at has nothing to do with an approval of what Harvest Power will be doing at the landfill site. She stated that this decision does not approve any health or environmental issues in the lease and does not approve anything that Harvest Power will do on the land. It is merely an approval of the Selectmen’s signing a lease with Harvest Power. It has nothing to do with what is in the lease. The Board of Health is not allowed to talk about the actual operation at this point. Mr. Barlow disagrees because he feels that Harvest Power is asking to do a lot of things that are not allowed on the site right now. He thinks that the Board of Health should be discussing those things now. He said that the Board should be discussing whether it will allow operations at the site that are not allowed now. Ms. Peterson said that this is why it is being separated. Presently the Selectmen cannot enter into any kind of lease without the Board of Health approval. But Harvest Power also can’t bring anything to the Board of Health until they have a lease in hand. The lease does not give Harvest Power the authority to do anything on that site. Mr. Barlow feels that once Harvest Power leases the property that they will be able to put a power plant on the site and that the Board of Health will have no control over that project. Mr. Torres stated that all of the documents have been reviewed in regard to the RFPs, etc. He has just provided the document to the Board that states his findings. The Board can still ask questions of him and of Harvest Power. The approval would only deal with the transfer of property. The Board is not voting to agree with any terms and conditions in the lease. He said that in the resolution there is a statement that the Board is only voting in accordance with Condition X to permit ISWM to transfer its management and operational responsibility for this portion of the site assigned property over to Harvest Power. There are specific limitations that nothing can go on at the site in conflict with the existing site assignment. Mr. Barlow asked again to be sure that the Board approval does not give Harvest Power any approval of the actual operation. Mr. Torres stated that the economics of the deal sit with the Executive Officers. Mr. Barlow stated that this is the first time that the Board has seen the document and he feels that this vote is being rushed. He said that last week the Board was given a set of questions and were just expected to read them that night.

Mr. Torres began his presentation on the draft document. He stated that there was an RFP in 2011/2012 that invited proposals for use of the parcel at the landfill. Harvest was the winning bid on all three parts of the RFP- to manage leachate, to work on the gas production at the landfill, and to combine that with anaerobic digestion so that there would be a greater gas source. There was a two year period during which the Executive Branch of government negotiated a lease, which the Board of Health first saw on June 4th. At that point Attorney Torres had already been reviewing the lease to assist the Town on the process that would allow the Board of Health to exercise its proper authority under Condition X and to separate any functions with respect to site assignment. Attorney Torres drafted that protocol; it was approved by the Town Counsel, and by the Board itself. Today we are at the second of the hearings on that Condition x approval. In the document itself the site assignments regulations and the existing site assignment are addressed. There is also explanation of how the Board’s Condition X overlays the existing site assignment regulations. Mr. Torres stated that essentially it supports the position that if an anaerobic digestion facility is going to be put on this parcel then it definitely has to come into compliance with the existing site assignment. Because the existing site assignment has a condition X, there can be no doubt that the Board of Health has significant authority with respect to the transfer of this property. That is why there is significant discussion in the document about condition X and the existing site assignment regulations. Mr. Torres stated that condition X has to do with the qualifications of the transferee, in this case Harvest Power. The Board will look at who the party is, what they are capable of doing, and what they have done. The Board will look at the qualifications of the company and who are the key personnel in said company. The Board will look at from a financial, organizational, and historical standpoint, what is Harvest Power capable of doing to manage the site. The Board needs to make sure that the site is transferred to someone with financial resources and experience in management of site assigned areas. The Board needs to look at the company from a financial standpoint for surety and liability, from an operational standpoint with respect to the presence of hazardous materials and the fact that the facility will adjacent to an operational site that handles mixed solid waste, C & D, ash. Then the Board has to look at what Harvest Power has done. The Board needs to look at historical compliance, permitting, and their record in respect to litigation and their compliance with other contractual obligations. The Board should also look history of compliance with existing contracts with other municipalities or government agencies. Attorney Torres stated that the Board has received the two previous document requests and the narrative questions that were asked of Harvest. All the answers to those questions helped to determine Harvest Power’s ability on each of the criteria previously talked about. Mr. Torres looked at the RFP and looked at the documents for which there were concerns relative to confidentiality. He is comfortable that the documents reviewed show that Harvest Power has the ability to manage the site. He restated that the gathering of all the information described is what helped him to come to the conclusion that Harvest Power has the ability to manage and operate the site as they have proposed. Those were the processes with respect to gathering the information to support his decision.

Attorney Torres stated that when he visited the Harvest office they provided any personnel necessary to answer any of the questions he had on any of the documents. He then created a matrix to designate where the answers to questions were found during the process. With respect to qualifications and experience, this is regarding the corporate organization as well as the project specific staff. The narrative states that Harvest Power operates three anaerobic digestion facilities. Currently they operate over 40 sites in the United States and handle 2 million tons of organic materials at those sites. The curriculum vitae were reviewed for the Harvest personnel. The personnel have experience in organics management, financial management, and energy. Mr. Torres said that he was satisfied with the experience of the Harvest Power personnel and believes that this project team and corporate team have the qualifications to operate and manage the site being considered. Mr. Torres read directly from his findings document. The second area looked at was the financial conditions. Ms. Peterson called for a two minute recess. The meeting was reconvened. Mr. Torres continued by stating that the independent audit was reviewed and he asked for updated financials as well. He reviewed the financial condition of the company with respect to standard balance sheets and growth trends over the last three to five years. He looked at liquid assets and made a determination as to their financial condition. He also looked at Harvest’s ability to access both the debt and equity capital markets for project development. Based on review of the standard development areas, Mr. Torres made a finding that Harvest Power’s financial condition is sufficient for it to assume site management and control of the area in discussion. The next area for review was Harvest Power’s history of environmental compliance. Harvest Power had pointed out that at all of the facilities there were two occurrences of concern relative to environmental compliance. Attorney Torres reviewed all the documents relative to those two occurrences. One occurrence was a technical violation, a reporting violation, that Harvest Power’s consultants did not conduct required air testing on the required date. The firm was not able from a staffing standpoint to do the required testing. There was no imposition of any civil fine or penalty. The operator responded quickly and remediated the situation satisfactorily. The second violation was an elevated level in effluent discharge. This happened in Canada. There were NPDES permits and had loading factors for discharge effluent. There was an elevated level of nitrogen in the effluent and Harvest Power received a letter of concern and a request for action. Harvest took immediate action and contacted the agency and drafted a remediation plan. Because there was no cease and desist order and there was no penalty imposed. The elevated discharge was not a threat to the public or the environment. Attorney Torres found that there was good environmental compliance with Harvest Power operations. The next issue looked at was contract compliance. He looked at the history of other contracts with other Towns and agencies. The finding here was based on review of available documents and he did not find that there was any history of contract noncompliance. The next issue he looked at was the history of litigation. There was a dispute between the owner that built the Ontario Plant and the EPC (Engineering, Procurement, and Construction Company) with regard to pricing and Mr. Torres stated that many jobs do not close out without such a dispute and he did not find any history of an issue with litigation.

Mr. Torres stated that the Board is not looking at the technology, the process, the schedule, or the timeline of the project. The Board is just looking at the issues Attorney Torres has already summarized. Mr. Torres stated that his document states that the Board of Health is not really approving the lease; the Board of Health is only making a finding that the company to which the lease is being transferred is satisfactory to the Board of Health. Mr. Torres stated that his decision has painstakingly differentiated between site assignment and Condition X approval from what the Board of Selectmen are doing. The Board of Health will only be saying that it finds Harvest an appropriate entity to assume the control of that small portion of the landfill site. Ms. Peterson thanked Attorney Torres for his presentation. Mr. Barlow again stated that he still is not comfortable with making a decision and that the Board has not been able to have enough questions. Mr. Barlow said that he does not feel that Condition X was only written to allow the Board to look at finances but was to have the Board be able to look at the project as a whole. He thinks that it is too much too fast. Ms. Mastria stated that the Board can’t really look at the project until there is an approved company to have the lease. She feels that the Board is really only saying that Harvest Power has the qualifications to move forward with the Town and enter into the lease. Later the Board will be able to look at the project. Attorney Torres stated that legally the Board cannot look at the particulars of the project until the site assignment has been opened. Mr. Barlow feels that the Board is opening a can of worms. He believes that the Board had condition X so that the Board can review the project, not just the financial issues. Ms. Mastria stated again that she thinks that the process is fine and that we are just approving the qualified company to go forward. The Board will still be able to look at the project as a whole during the site assignment. Ms. Peterson said that there are so many legal conditions that any action by the Board is not to be taken as an approval by the Board of Health. It is only a permission to allow ISWM to transfer operational control to Harvest Power of that portion of the property in discussion. Mr. Barlow restated his concerns about what action is being taken. Mr. Torres stated that because the feed stock of this power plant is source separate organics, because it is an anaerobic digestion facility, and because it is qualified facility and not a utility plant, like a coal fired or natural gas plant, they are not an energy provider. They will enter into a power purchase agreement. They are not a utility power plant like SEMASS. They will not be in the same category. Wayne Davis from Harvest Power stated that they would be selling the electricity under a power purchase agreement to on of the distribution companies in Massachusetts who would then sell it to their customers. Mr. Barlow still feels that we will not be the permit granting authority. Ms. Peterson said that this facility will be under site assignment and the Board of Health will have control. The operation will always be under Site Assignment. Dan Barrett stated that Harvest Power will be regulated under a MA DEP Solid Waste Permit. The Board of Health also has general authority to regulate anything that is a public nuisance and this is in addition to its authority under the Site Assignment. Mr. Andrews asked Mr. Torres if the process we are undertaking could have been done in an opposite order, or doing the site assignment modification first and then looking at the approval under Condition X. Mr. Torres stated that it is hard to say but that if ISWM had been the applicant and the party to build the facility and then least to operate it might have been able to do that way. In the present case a separate entity will be responsible for the design, construction, finance and operation and the best way is to lease the property first so Condition X has to be addressed first. Harvest Power has to have a lease in place before it can go forward. Wynn Davis, Harvest Power, stated that he understands that this two step process can be confusing and frustrating. He said that he can remember sitting with Dan Barrett two years ago when he explained the process that the Board of Health would have two reviews of the proposal. Mr. Davis stated that he has never had to deal with this before, and it is due to Condition X of the Site Assignment. The Board of Health will be able to review the project during the site assignment process and Harvest Power will be able to answer any questions of the Board of Health and the Community. Harvest Power wants to be good neighbors as they will be in the community for 25 years as a participant. Mr. Davis added that the bankers are on the side of the Board of Health in that before Harvest Power can raise money for the project, the bankers will be looking to see if Harvest Power has satisfied every condition, and unless Harvest Power gets a site assignment from the Board of Health, no one is going to loan Harvest Power any money to build the project. Mr. Barlow stated that he believes that the process is being pushed much too fast but that is just his opinion. Mr. Torres stated that he believes he has been as thorough as possible during this part of the review. He said that he has also been asked to prepare an appropriate resolution in case the Board decides to take a vote tonight. His resolution states that whereas the Board of Health has been presented with a lease agreement, and whereas the lease agreement calls for the transfer of a described portion of land, and whereas Condition X of the site assignment states that the Board of Health must vote to approve any transfer at a public hearing, and that the Board of Health has held a hearing on the sole issue of whether to transfer the operational responsibility of the site assigned area contained in the lease. The vote is not on the operation but on the transfer of the lease. The resolution also states that nowhere in the resolution or the draft decision is there approval of the project. Harvest Power is not being given an authority to do anything but enter into the lease agreement. Mr. Mulvey asked if Harvest Power was a United States Corporation. Mr. Davis stated that yes. Mr. Mulvey asked if the 40 sites referred to were directly under the corporation or were subsidiaries. Mr. Davis stated that most of the 40 sites are owned subsidiaries and not franchises. Mr. Andrews asked Mr. Torres about wording in the decision which referred to ‘exhibits’. Mr. Torres said that the exhibits were the documents presented to the Board at the last meeting, the narrative, the Harvest Power Point, and the financial statements that Attorney Torres looked at. There were all exhibits that the Board had last time. Mr. Torres went over the exhibit numbers and the corresponding document descriptions. There was more discussion that the Board cannot ask questions about the actual project at this meeting. Ms. Peterson stated that there is no way to get the questions answered unless the Board goes forward to allow the lease. Mr. Barlows still feels that the Board has not asked its own questions. He feels that Mr. Torres developed the questions and that the Board of Health did not have input. He wants more information on the whole project and he understands that we cannot get more information until Condition X is approved. He just has a problem with this. Mr. Torres stated that the Board cannot ask questions about the project and any environmental issues until the Board is in the site assignment process. The State regulations on Site Assignment are very specific. Mr. Torres stated that the Board of Health is doing everything it can at this point. The Board has to vote up and down on the lease, anything else would be outside the Board’s statutory authority. Mr. Mulvey stated that tonight the Board would only be supporting the lease. Ms. Peterson read from the resolution “nothing in this resolution, the draft decision, or Board’s vote shall constitute an approval or endorsement of the lease agreement or any term or condition contained therein.” Ms. Peterson gave an overview of the process to date. Mr. Andrews stated that he did ask questions at the last meeting and he did get answers. He asked Ms. Coffin when she got the copy of the resolution and she stated that she received it on August 27th. **Mr. Andrews made a motion that the Board accept the resolution before them tonight that was received by the office on August 27, 2014, and that is before the Board of Health. Mr. Uitti seconded the motion. A vote was taken and all were in favor except for Mr. Barlow who abstained.**

Ms. Peterson said that anything from Harvest Power should be brought to the office for distribution to the Board members. She went on to say that she expects Harvest Power to come before the Board before they actually apply for site assignment. The Board needs more time that the 45 days allotted after the site assignment is open in order to give a thorough review to this project. She would like to see the applicant come before the Board as information is available. She wants the Board of Health to understand the project before the site assignment is opened. Mr. Davis thanked Ms. Peterson for her comments. He stated that he also agrees that it is best to come before the Board/regulator informally before submitting formal documents. Harvest Power will also ask the Board what its concerns are. They want the process to be as smooth as possible as well. Mr. Davis asked if it was the intention of the Board to adopt the explanation of the decision that Attorney Torres adopted. Ms. Peterson believes that this explanation was just for our use and does not need to be voted on. She stated that at the site assignment the Board will document everything in its decision.

**2. Landfill – Dan Barrett –Discuss and possible vote regarding Emergency Notification Protocol and discuss landfill update.** Mr. Barrett read through the draft emergency notification protocol. He would like the Board to make comments and then he will finish the document. Mr. Andrews has concerns about the method of contact. He wants it noted that Ms. Coffin will be the first contact attempted and a message will be left if she is not reached. Then the notification will be Chair of the Board of Health, Vice Chair, and members and messages will be left until a live body is reached. Mr. Andrews also stated that as far as compliance requirement, he feels that financial should be secondary and that the primary will be closure. He believes that there should be closure upon the first offense and extending out if there are further violations. He wants the document to have some teeth. Mr. Andrews stated that the closure would be for everything on the site except the residential drop off area. The residents of the Town will not suffer for ISWM not reporting to the Board as required. Mr. Barrett stated that this will cause problems with ISWM’s contractual obligations but Mr. Barrett and Mr. Peterson said that this is ISWM’s issue to deal with. Ms. Peterson presented three options of 24 hrs, three days, and then a week as the three tiers. If anything gets to a third time then there are issues. Mr. Barrett stated that if there are three issues he would not be at ISWM anymore. The Board discussed the matter further stating that fines would not be appropriate as it is all the Town finances. Ms. Peterson feels it needs to be stated that all the people under Dan, the Management Team, needs to be aware of the policy and need to follow through on that protocol. Mr. Andrews said that the protocol has to have a call down aspect for who is responsible to make the calls. Ms. Coffin stated that ISWM will need everyone’s off hours' contacts and there needs to be correction to the office numbers during operation times. She will give him other phone numbers. Ms. Coffin stated that the others at ISWM will need the call down list as well. Mr. Barlow believes that a closure of the landfill is a little abrupt. He thinks that closing the landfill is just punishing the Town. The C&D operation has a serious economic impact on the Town and the closure would be a negative effect. Ms. Coffin and others stated that there should be a hearing before any action as there could be mitigating circumstances. Mr. Barlows feels that the hearing is important. Ms. Mastria agreed that the hearing is the fairest way to deal with an issue of non-notification. Ms. Peterson wants there to be something in the protocol stating that there will be a hearing with an option of closure. Mr. Barrett will continue working on the draft and will get it back to the Board.

Mr. Barrett continued with the landfill update. He stated that he had sent around a memo referring to the possibility of temporarily closing the C&D transfer station. There was a fire in Sandwich and one of the competing facilities was closed. This resulted in Bourne getting more tonnage than it had before and the problem wasn’t accepting it but how to handle it and exporting it. One of the processors that takes our material happened to be a parent company of the facility that burned. The Town deals with two rail companies, one in Brockton and one in Stoughton, and they have been having a problem getting rail cars so they could not accept all the material. Other facilities are overwhelmed with the lack of outlets. The Town is working on some alternative options to get rid of the material but they want to be careful where it is sent and how it is handled. The Town is only able to keep so much on the floor. The Town closed for two days and exported enough material to get to a safe stockpile on the floor. Now we are metering tonnage in based on what can be exported. The pile is now back under control. They are operating at about 40-50% capacity. There was another problem in Connecticut where a gasifier for woodwaste was opened and there were a lot of processors going to this facility but this has been shut down for about two months. That was why he issued the document in case they had to shut down accepting C& D for a time. Mr. Barlow asked if it would be better to only operate for so many hours and Mr. Barrett stated that this is basically what is happening. No one has really noticed the change. Mr. Barrett went on to stated that there Phase IV

Stage II liner is completed. There was a second partial authorization to operate to put leachate on the liner to facilitate the connection between the two cells. The second partial authorization to operate was to allow the select waste layer into the cell. This let them stabilize the sand layers. DEP is waiting for the final clay readings and the destructs on the plastic and synthetic products in the last section where the connection was made. He stated that Bates and Son did the work and there were no significant odors during the work. They will get a layer of trash on that work to help with any odors. The Town is waiting for DEP’s final authorization to operate. The new flare installation has taken place. It was started on July 8th and has been running perfectly. There has been a problem with the unit and the flare tip which is a new design. There are control issues that are being addressed. The generator is working fine. There have been some re-ignition problems that are being taken care of. Mr. Mulvey asked what happens with the leachate issue if there is a power outage. Mr. Barrett stated that there is a backup generator that can run the flare and the leachate pumps. Mr. Barlow asked who is running the scrubber and Mr. Barrett stated that it is being run by Boyd. The Town doesn’t have the capacity to take that on at this time. Mr. Barrett also stated that the hydrogen sulfide concentrations in the gas are down to about 500 ppm at the inlet to the scrubber and it should be down below 200 ppm in about a year and the scrubber could then be shut off. Right now it is about 150-180 ppm when it leaves the scrubber. There is a cumulative emissions standard. The Town owns the scrubber but does not operate it. The Board thanked Mr. Barrett for his presentation.

Next item for discussion.

**3. (4 on agenda) 12 Prospect Ave- Bracken Engineering for Richard Irving –Request variances from the 150 foot setback to a wetland resource area for a proposed Alternative Septic System –** The green cards were submitted to the staff. Zac Basinski of Bracken Engineering was present. He described the project location. Mr. Basinski stated that the lot is a single family house lot. The existing house was built in 1900. It is presently serviced by a single family cesspool that is about 84 feet from the bordering vegetated wetland. He stated that the resource is a non-coastal resource area. Mr. Bracken said that wetland is an isolated wetland resource area that is 380 feet from Hen’s Cove. He said that the system actually receives water from the town drainage system. He stated that this is what feeds the wetland system in question. The applicant is requesting to raze the existing house and build a new dwelling to be serviced by a new Title 5 septic system. They are proposing a nitrogen removal system with a distribution box and soil absorption system. Given the site constraints they are asking for two variances. They are requesting a 54 foot variance from the 150 foot setback for the reserve area, and a 34 foot variance from the 150 foot setback from the primary leaching area. Mr. Basinski stated that the existing house is a three bedroom house per the Assessor’s records but that the house is actually a six bedroom home. They are proposing to construct a four bedroom dwelling.

Mr Basinski stated that with the alternative system proposed they are reducing the nitrogen by 53%. He is requesting that pressure distribution not be required. He stated that the wetland has no direct contact with Hen’s Cove or the shellfish beds in the cove.

Ms. Coffin stated that he has spoken to Mr. Basinski about the issue of pressure distribution. She still feels that pressure distribution should be required in this instance. The 150 foot setback regulation was written to address virus attenuation and pressure distribution is the way that the Board tries to ensure virus removal when the leaching is not 150 feet from a wetland. She understands that Mr. Basinski is stating that the wetland is not connected to Hen’s Cove but she does not know if this is the case. Mr. Basinski stated that the Town’s drainage system is doing more harm to the cove. Ms. Coffin asked Mr. Basinski if he could say for sure that this wetland is not hydraulically connected to the harbor. Mr. Basinski stated that it is connected but that it is over 150 feet to Hen’s Cove. Ms. Coffin said that when she originally asked Mr. Basinski why he didn’t design for pressure distribution he did not say anything about there not being an environmental issue, but stated that a pump was just one more thing to break down. She does not believe this to be a valid statement and still feels that pressure distribution should be required by the Board. Ms. Peterson stated that she understands both positions. Mr. Basinski stated that he does not think that there will be any human contact to the effluent considering the wetland in question. Mr. Barlow stated that the Board tries to be consistent. There is a connection from the wetland to Hen’s Cove if you look at the whole wetland. He would like to see pressure distribution in this case. Mr. Andrews asked a question about the architecturals, Sheet A-2. He stated that there is an office with a three foot door. Mr. Basinski stated that there is a glass door across it. Mr. Andrews feels that it meets the definition of a bedroom. Even the part of the room with the four foot opening has doors. It was decided that the doors would need to be removed so that the room does not meet the Board’s definition of bedroom space. The applicant noted and initialed the changes on the plan of record. Mr. Andrews stated that there should also be three bedroom deed restriction. Ms. Coffin stated that she did not think that the figures on the square footage are accurate but that it probably doesn’t make that much difference as it is new construction and there is an alternative system being offered. Mr. Irving, the homeowner, stated that he owns a good portion of the wetland area but that there is a 14 inch storm drain coming in off the road that is already introducing viruses and fecal matter. He doesn’t feel that doing pressure distribution will make an impact if there is already such a contribution from the storm water. Mr. Barlow said that the Town has already done a lot of stormwater remediation projects and that this area will be looked at in the future. He stated that the Board of Health needs to do what it can to address issues when things are before them. Ms. Mastria asked if pressure distribution was going to be required. Ms. Coffin says that it is up to the Board. Ms. Mastria, Mr. Andrews and Mr. Uitti agreed that pressure distribution should be required. Mr. Basinski asked if ultraviolet disinfection could be used instead of pressure distribution. Ms. Coffin stated that she had already explained to Mr. Basinski that the Board does not like using UV for treatment as it is often difficult to make sure that bulbs are burnt out, etc. Mr. Basinski asked if that meant that UV would never be approved, and Ms. Coffin stated that she only remembers it being approved of late for retrofits of existing systems so that someone doesn’t have to redo the whole leaching facility, but even this has not happened in years. Ms. Coffin stated that there are about 130 alternatives in the database and she does not believe that there is a huge problem with pumps going down on the systems. Mr. Andrews said that the plans would have to be redesigned. He would like to approve with a contingency that the plans be amended to include pressure distribution. Ms. Coffin said that the Board will just have to allow her to change the date of the plan of record. Mr. Basinski said that he can have the plans to the Board by the end of the week. **Mr. Andrews made a motion to approve the reduction in the setback distance for the proposed soil absorption system for 12 Prospect Avenue, from 150 feet to 96 feet or a 54 foot variance for the reserve leaching system to an isolated vegetated wetland and from 150 feet to 116 feet, or a 34 foot variance for the primary leaching facility. He referenced architecturals dated received August 13, 2014 and amended at the meeting of August 27, 2014. The septic system will have a pressure distribution system added to the septic plans by Bracken Engineering received by the Board of Health on August 13, 2014, and updated drawing with that system shall be submitted to the office by September 5, 2015. He also voted that there be a four bedroom deed restriction. There was discussion that the office space that had been discussed before is actually a bedroom so now the applicant does not have to remove any doors or make any cased openings in that office space. Mr. Uitti seconded the motion. It was a unanimous vote to approve.**

**4. (6 on agenda) 135 Circuit Ave – Zac Basinski of Bracken Engineering for Katherine Wagner – Request another extension on variances originally granted on June 13, 2012 – last extended February 26, 2014.** Mr. Basinski stated that the estate still has not been worked out and the house is still for sale. The owner wants to put the system in but is requesting another six month extension. Ms. Coffin questioned how the Board of Health will know that if another party buys the house they will be satisfied with the architecturals that the Board of Health has approved. Mr. Basinski said that if someone buys the house and wants something different they will have to come back before the Board of Health. Ms. Coffin stated that it might be better to allow a new owner to just start the process over when they purchase the house. Mr. Basinski remarked that the present owner still is not sure whether she wants to build the house herself. Ms. Peterson suggested that the Board of Health extend the variance for a year because estates in Massachusetts can take over a year to clear. Mr. Andrews said that he would rather stay with the Board’s normal policy of a six month extension. Ms. Mastria states that in this case it is a little different because of the issue with the estate. Mr. Barlow doesn’t have a problem with giving a year extension**. Mr. Uitti made a motion to extend the variances for 135 Circuit Ave for another year. Ms. Mastria seconded the motion. It was a vote of 4 in favor with 1 abstention.**

**5. 83 Gilder Rd – Barbara Frappier of Warwick & Associates for Gary Puryear- Request waiver to use the existing septic system for proposed renovations –**

Ms. Frappier explained the project to the Board and submitted the green certified mail cards. She stated that there is an existing home at 83 Gilder Road and Mr. Puryear has been approved by the Conservation Commission to put on an addition to his house and also build a one car free standing garage. The existing septic system will be close to the addition. The existing leaching system is as far from the wetland as is possible. The architect Greg Siroonian, Ms. Frappier, and Ms. Coffin all looked at the site and agreed that the addition originally desired could not be built as it was too close to the existing leaching area. The addition onto the house will now be on footings, with no foundation next to the tank. Now the tank will not have to be moved and it will not impact the leaching area. The addition will be a carport with a space above. The architect described the addition. The carport will be on sonotubes. Ms. Frappier stated that she is asking for a waiver to continue the use of the existing system for the proposed carport with space above. The existing system was dug up and inspected. There is no increase in number of bedrooms. The addition will be less than a 50% increase in non-bedroom space. It was explained that the carport will be next to the existing porch. Ms. Coffin stated that she has already inspected the septic and it is functioning properly. She asked about the number of bedrooms. One bedroom is being removed and the new bedroom will be over the carport. Ms. Coffin stated that the leaching is over 150 feet to the actual resource. Ms. Frappier stated that the leaching system is 158 feet to mean high water. Mr. Andrews mentioned that Ms. Coffin had talked about the existing septic tank not being an H-20 load. He asked the proponent what the attached garage was going to be used for. The answer was that it was more like a shed and there was no space above. Ms. Coffin stated that the plans do not show a driveway to the detached garage. She restated that the Board doesn’t have anything in their proposal about the garage. Mr. Andrews wants to make sure that there is no driving over the tank. Ms. Frappier stated that if it will be driven over the tank will be changed to an H-20 tank or will have an H-20 cover installed. Ms. Coffin noticed that on the plan it does say that there is an H-20 tank there. **Ms. Mastria made a motion to approve the waiver request for 83 Gilder Road to continue the use of the existing septic system for the proposed renovations. The architecturals of record are those by RESCOM, dated received August 20, 2014. Ms. Mastria added that there be a four bedroom deed restriction on the property. Mr. Andrews seconded the motion. It was a unanimous vote to approve.**

**7. Tobacco Violations – Cindy Coffin—Discuss and Possible Vote to fine for selling of tobacco products to a minor –** First up was Mike Sorenti of Sorenti Shell, 1 Canal Street—This is the second violation within six months. Mr. Sorenti said that he has a policy that all the employees sign. He believes that his son sold the product. It was a very busy time of the day. He knows that it was not done with any ill intent. He said that he tries really hard to enforce and uphold the regulations. There are separate policies for all sales, tobacco, lottery, etc. He has reminders to check ID’s on each shift’s schedule. It has been many years since any other violation outside of the recent two sales. **Mr. Andrews made a motion to issue a fine of $200 to Sorenti Shell for the second offense within 6 months for selling tobacco products to a minor. Mr. Barlow seconded the motion. It was a unanimous vote.** The second item was Sunoco –

282 Main Street – The owner Zahed Rashid stated that there was a new girl that was hired that made the sale.  **Mr. Uitti made a motion to issue the fine of $100 for the first sale of tobacco products to a minor. Mr. Andrews seconded the motion. It was a unanimous vote.**

**8. (#9 on the agenda) Amend Bed & Breakfast Regulation – Cynthia Coffin – Discuss and Possible vote to rescind the Bed & Breakfast regulation dated effective March 10, 1995—Not needed, already in the State Food Code—**Ms. Coffin stated that this is an older regulation but that Bed and Breakfast are now covered under the existing Food Code. **Mr. Uitti made a motion to rescind the existing Bed & Breakfast Regulation. Mr. Andrews seconded the motion. It was a unanimous vote.**

**9. (#10 on agenda) - Approve the minutes of July 9, 2014 – Ms. Mastria made a motion to approve the minutes. Mr. Andrews seconded the motion. It was a unanimous vote to approve.**

**10. (#11 on agenda) – Approve the minutes of July 30, 2014 – Ms. Mastria made a motion to approve the minutes. Mr. Uitti seconded the motion. It was unanimous vote to approve.**

**Mr. Andrews made a motion to adjourn. Mr. Uitti seconded the motion. It was a unanimous vote and the meeting adjourned at 9:34 PM.**

Taped by Lisa Collett and typed by Cynthia A. Coffin, Health Agent

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

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

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cc Board of Selectmen/Town Clerk