



**TOWN OF BOURNE
BOARD OF HEALTH
24 Perry Avenue
Buzzards Bay, MA 02532
Phone (508) 759-0615 x1
Fax (508) 759-0679**



Cynthia A. Coffin,
Health Agent

**MINUTES
January 19, 2011**

Members Present: Kathleen Peterson, Chairperson; Stanley Andrews, Vice Chairperson; Galon Barlow and Carol Tinkham. Members Absent: Don Uitti

Support Staff: Cynthia Coffin, Health Agent and Kathy Burgess, Secretary

Call to order: Special Meeting called to order at 6:30 P.M.

Ms. Peterson stated that this portion of the meeting is a special meeting with Town Counsel Brian Wall regarding the site assignment for Sagamore Truck & Rail. Mr. Wall stated that he is here to guide the Board in this process as there have been some recent changes which means that the Board of Health now is the primary agency to decide on the site assignment. The Dept. of Environmental Protection used to get the first 60 days to review it and provide a report but that is not being done anymore. Mr. Wall stated that the State statute Chapter 111 Section 150A ½ provides all the criteria that the Board needs to be looking at for the application. Mr. Wall stated that he has spoken with the consultant briefly who gave him an updated timeline that he will look over. Mr. Wall stated that after the notice is given they have to have a public hearing. Mr. Wall stated that it is more like an evidentiary process where they have to appoint a site officer to act as a referee of the hearing so evidence can be taken. Mr. Wall stated that the site officer cannot be anyone that has anything to do with the applicant or has any connection with the town. Mr. Wall stated that it does not have to be an attorney but somebody knowledgeable about evidence and that he can give the Board a few names as suggestions. There was general discussion regarding who the hearing officer was for the landfill. Mr. Wall stated that he remembered reading the information on the landfill and thought his name was John Shea. Mr. Wall stated that George Hardiman is an attorney that they work with on occasion who used to be a district attorney but is now in private practice on the South Shore. Charles Sabbott is another attorney they can recommend who is from Hyannis but he may be participating in another issue the Board is involved with. Ms. Peterson stated that she was concerned that \$1800.00 was already spent from the technical review fee which only left \$200.00. Ms. Coffin stated that the public hearing fee would be a separate fee. Ms. Peterson stated that according to the fee

calculation the public hearing fee should be about \$3800. Mr. Hanscom stated that he agreed with that amount. Ms. Coffin stated that the technical fee is for review of the site suitability report which they already have. Ms. Peterson stated that she does not believe that the Board is precluded from amending its fee requirement. Mr. Wall stated that the Board has determined the application is complete. Ms. Coffin stated that they had done that at the last meeting. Ms. Coffin stated that she believes that you have a certain amount of time to set the technical fee and she believes they are past that. Ms. Peterson stated that they will have to have the \$3800.00 for the public hearing fee before the hearing. Mr. Hanscom stated that the Gallo's are not feeling well tonight and are not at the meeting but he feels certain that if there was additional funding needed for the technical fee the Gallo's would provide it at the Board's request. Ms. Peterson suggested that the \$1800 already spent on the technical review be replenished to bring that technical fee account back up to \$2000. The Gallo's paid Sitec out of their own account as the \$2000.00 they had already given the Town was in an account that could not be accessed for payment. Ms. Peterson suggested that the Gallo's waive the return of the \$1800 for now to make sure there is enough funding available. Mr. Wall stated that what the applicant wants from the Board is the site assignment and what the Board is entitled to have is an adequate amount of information to base their decision. If during the course of the 60 day review there is an issue regarding something like the potential for adverse impact on air quality because they are talking about ash. Mr. Wall stated that he presumes the applicant would be putting some information before the Board to show them proper measures are being taken to control that. Mr. Wall stated that he agrees that if Ms. Peterson feels there may be an issue having an empty bank account then that could be addressed and from what he hears the applicant seems cooperative with it. Mr. Hanscom suggested that the Board request another \$1000.00 and if that is inadequate they could request more. Mr. Barlow asked what Ms. Peterson foresees as a possible additional expense. Ms. Peterson stated she is a little concerned about the new highway work going on in that area which no one knew was going to take place when they first looked at this. Ms. Peterson is referring to the area of the Sagamore Mall outlet which is under renovation. Mr. Hanscom stated that there are a maximum total of six vehicles going to the site on any day. Ms. Peterson stated that she just wants to make sure they cover everything. Ms. Peterson stated that she agrees with the report from Ray Quinn that the waste handling area that there is an inside and outside door. After you walk in the door, you close it and walk in the door to the area where they have the ash. Mr. Hanscom stated that it is really just a large overhead garage where the vehicle comes in and dumps it onto the floor and then exits the building. Mr. Hanscom stated that the ash is wet and they have been operating for over 15 years and have not had any nuisance complaints by anyone. Mr. Hanscom stated that the Board always retains the right to address any nuisance conditions that are created within the Town so he believes they are covered in all directions. Ms. Peterson stated that they would be within 500ft of the Canal View apartments if there were any issues. Mr. Hanscom stated that they consider it an enclosed facility. Ms. Peterson asked Mr. Wall if they should take a vote on replenishing the funds for the technical fee and the funds for the hearing officer or should they put it in writing. Mr. Wall stated that they could have a board vote if they chose to but that it is a requirement that there be funds for the hearing officer fee. Mr. Wall stated that he thinks they should discuss the timeline and the notice that will go out for the public hearing. Ms. Peterson

stated that they have to decide on a date for the public meeting tonight. There was general discussion regarding the date to hold the meeting. The meeting cannot be held any sooner than 21 days after the notice is put in the newspapers. It was decided to hold the public hearing at 7:00 P.M. on March 2, 2011. Ms. Peterson asked that Mr. Wall and the hearing officer come to the meeting at 6:30 P.M. Ms. Coffin asked if she should contact a hearing officer. Mr. Wall stated that he would make a call. Mr. Hanscom stated that he would get the notice written up and send it to Ms. Coffin. Ms. Coffin stated that she would send it to Mr. Wall for his review before submitting it to the newspapers. **Mr. Andrews made a motion to close the special meeting with Town Counsel, Brian Wall, regarding site assignment for Sagamore Truck & Rail. Ms. Tinkham seconded the motion. All in favor and the motion PASSES.**

Second Part of special meeting to discuss the Pocasset Mobile Home Park is called to order at 6:55 P.M. It is anticipated that the Board may vote to convene an executive session in order to discuss pending litigation.

Ms. Peterson stated that the decision to go into executive session is with Town Counsel, Brian Wall. Mr. Wall stated that the lawsuit is with the State of Massachusetts against the Park Owner and under the new Open Meeting Law there has to be pending litigation with the Town to go into executive session. Ms. Peterson gave Mr. Wall a letter that was faxed earlier in the day from Mr. Roman, Mr. Austin's attorney, asking for a continuance because they could not make it to the meeting this evening. Mr. Wall stated that if the Board feels they can wait and accommodate Mr. Roman's schedule it is up to them if they would like to continue the hearing. Ms. Peterson stated that she does not feel they can. Mr. Wall asked if the Board was going to talk about the fines at all. Ms. Peterson stated that they will be discussing the license because right now the park is running without a license. Ms. Peterson asked Mr. Wall about the conditions of the license (see attached). Mr. Wall stated that the conditions were fine if the Board felt these conditions would protect public safety. Mr. Wall stated that there was a hearing brought by the Attorney General in Boston on Tuesday to have a receiver appointed. Charles Austin hired an attorney to represent the park at that hearing and because he got into the case late in the day he asked the court for an opportunity to submit opposition materials. The court continued the hearing until February 3, 2011. Mr. Wall stated that it is the AG's recommendation as well as Town Counsel's that the Board consider granting a license for 60 days specifically for purposes of waiting to see what the outcome is of the motion that was brought to court. If the court appoints the receiver you want to make sure the receiver has to come before the Board to request a continued license and to run the park as the receiver deems appropriate and not necessarily have Mr. Austin retain a management firm in attempt to sidestep the process. Ms. Coffin stated that she has gone over the conditions of the license with Tracy Triplett from the AG's office. Ms. Peterson asked Mr. Wall to explain to the Board what a receiver is. Mr. Wall stated that a receiver is similar to a trustee in a bankruptcy where that person would lose control of all their assets. A receiver would be appointed by the court to involuntarily take away control of the Park and have full legal authority to run the park. Mr. Wall stated that the Board of Health has had frustrations with the owner and this would put someone in charge with the capability of running the park. Ms. Tinkham asked if Mr. Austin's attorney convinces the

judge not to grant receivership would it revert back to the Board of Health. Mr. Wall stated that yes, that would happen and that is why Town Counsel's office is recommending just issuing a 60 day license for now. At the end of the 60 day period and if the AG is successful then the receiver will be appearing before the Board with whatever their plan is and a request for a new license. Mr. Wall stated that you want whoever the receiver is to have the license so they can go forward with whatever plan they may have to solve the problem. If the AG is not successful, then there would be another hearing in 60 days for a continued license. Mr. Barlow asked Mr. Wall if there would be any problem with adding on any extra conditions on to the license tonight. Mr. Wall stated that the Board has the discretion to do that but he wants to make sure that they are giving the license with the purpose of waiting to see the outcome of the court action. Ms. Coffin stated that at the bottom of the conditions she has written: *These conditions are set forth with a 60 day temporary license for the park and will be reviewed in 60 days and may be amended in any form based on the Suffolk Superior Court decision on the Attorney General's motion for receivership.* **Ms. Peterson made a motion to close the special meeting which was a discussion on Pocasset Mobile Home Park with Town Counsel. Mr. Andrews seconded the meeting. All in favor and the motion PASSES.**

Regular meeting call to order at 7:05 P.M.

- 1. Lot #2 Bassett's Island-Bob Warner-Request for return of \$10,000 cash bond-**Ms. Peterson asked how the Phoenix system is working and how the reporting is going. Ms. Coffin stated that they are up to date on the testing and they are also up to date with their testing on the alternative system. Things seem to be working fine. Mr. Barlow asked if Ms. Coffin had done a walk through of the house. Ms. Coffin answered no. Ms. Peterson stated that they put \$10,000 in escrow on February 28, 2007 and according to the letter they would reduce it to \$7500.00 the second year. Mr. Warner stated that he never came in for the return of part of the escrow. Ms. Peterson stated that the bond amount was to be held for the first two years of operation. Mr. Barlow stated that Ms. Coffin was supposed to do a walk through of the house to make sure there were no normal bathrooms in the house and only a Phoenix toilet. Ms. Coffin stated that she had misunderstood Mr. Barlow and that she had done a walk through before the certificate of compliance was issued a long time ago. **Mr. Barlow made a motion to return the \$10,000 cash bond that was held in escrow to replace the system if it didn't work. It was to be held for the first two years of system operation. Mr. Andrews seconded the motion. All in favor and the motion PASSES.** Mr. Warner stated that he likes the Omni system very much and invited the Board to come out to see it anytime. There is no odor at all and it is very easy to maintain.
- 2. 53 Main St-Diamond Mind Tattoo-Timothy Creed-** Discuss & Possible vote regarding amendment to section 124.004 subsection (L) to lower the client age to 18 years. Mr. Creed is not at the meeting yet but Ms. Coffin stated that the Board wrote the regulations with the age restriction of 21 with concern for the cadets at

the MMA and also because Bourne had never had a tattoo shop before. Ms. Coffin stated that all the other towns around Bourne have the age limit as 18. Mr. Creed has lost business because of the age restriction. Ms. Coffin stated that it is something to consider if you can just go to the next town to get a tattoo at 18. Ms. Peterson stated that she called the Bourne Police to ask if there had been any problems with the Diamond Mind Tattoo shop and there have not. Ms. Peterson stated that she would like to ask Mr. Creed how he plans to determine someone is of age that is 17-18. It is not easy for a 17 year old to pass for a 21 year old but much easier for them to pass for an 18 yr old. Ms. Peterson wants to be sure that Mr. Creed will take that seriously because it can be difficult to tell the difference between a 16-18 year old. Ms. Coffin stated that Diamond Mind is the only tattoo establishment in Bourne right now. Ms. Peterson stated that there is little enough business in Town as it is and she hates to see Mr. Creed lose business to another Town but she would have liked to have him here so he could explain his plans of making sure people are of age to the Board. Mr. Barlow stated it is fine with him if an 18 yr old has to go to Wareham to get a tattoo. Mr. Barlow stated that tattoos make it difficult for kids to get into the service and he doesn't want it to be too easy for them to get a tattoo in Bourne. Ms. Peterson stated that the police told her that there are a lot of home parties and if the kids want a tattoo they will get one so at least it would be monitored at Diamond Mind. Mr. Andrews stated that he would like to table the discussion until Mr. Creed is present. **Mr. Barlow made a motion to hold further discussion of 53 Main St. until later in the meeting to see if Mr. Creed arrives. Mr. Andrews seconded the motion. All in favor and the motion PASSES.**

3. **62 Old Plymouth Rd-Discuss & Possible Vote regarding non-compliance with housing order dated October 29, 2010-** Ms. Peterson stated that she would like to know why the attorney or the bank who handled the home is not here. Gail Spencer and Mike Storer are the tenants of 62 Old Plymouth Rd. Ms. Peterson asked Ms. Spencer for an update. Ms. Spencer stated that they moved her out of the house temporarily last Tuesday and they moved back in today. Ms. Peterson stated that it was not up to Ms. Spencer to have to tell the Board what has been repaired it is up to the bank. The tenants should not have to come to a meeting to give a list of things that have been repaired. Ms. Peterson asked if they had incurred any expenses while they were living elsewhere. Ms. Spencer stated that they did not. The bank paid for the hotel with a per diem and paid for the dog kennel. Ms. Spencer stated that they have fixed a lot on the list but have not fixed everything. The repairs began on January 11, 2011. There are still 3 outlets that have to be changed. The hallway door to the stairs has not been fixed. Ms. Peterson stated that they will have to send out the health inspector to verify what has been repaired. Ms. Peterson asked if they were comfortable living there until the rest of the items are fixed. Ms. Spencer stated yes, but one of the things she had agreed upon with the contractor was that the outside of the house had peeling paint and they were initially under the understanding that they would pressure wash and then repaint. Ms. Spencer stated that she was told yesterday that they were not going to pressure wash. Ms. Peterson asked who the contractor was. Ms.

Spencer stated that he is the vendor for the property management company who works for the bank and his name is Michael O'Hara. The property management company is Tenant Access in Austin, Texas. Ms. Peterson stated that she would like to have a representative from the bank or an attorney here and that Ms. Spencer should not have to be here tonight. Ms. Spencer agreed. Mr. Andrews asked how many months this has been going on. Ms. Coffin stated that it started in November but because of the holidays there were fewer meetings than usual. Mr. Barlow stated that Ms. Furtek could arrange an inspection and then let the Board know what has been repaired. **Ms. Peterson made a motion to CONTINUE 62 Old Plymouth Rd until the next BOH meeting on January 26, 2011.** Ms. Coffin stated that the agenda that night is very full. Mr. Andrews stated that this has gone on long enough and should be resolved as soon as possible. Ms. Peterson stated that they have already been moved in and out of their home and there is no reason why someone can't be here to show whether they have complied with the order. **Ms. Tinkham seconded the motion. All in favor and the motion PASSES.**

4. **Sagamore Truck & Rail-Discuss & Possible Vote regarding site suitability determination and scheduling of Board of Health public hearing.** Al Hanscom, Beta Group, is representing Sagamore Truck & Rail. Ms. Peterson stated for the record that the Gallo's were both at home sick tonight. Ms. Peterson stated that Mr. Hanscom was here for the earlier part of the meeting when they discussed this item with Town Counsel, Brian Wall. The public hearing will be March 2, 2011 at 6:30 P.M. site to be determined. Ms. Peterson stated that Brian Wall gave the Board two names as possible hearing officers. One is more likely than the other. Ms. Coffin stated that Mr. Hanscom will send the wording of the notice to Ms. Coffin and she will forward it to Mr. Wall for completeness and then the Board of Health office will post it in the papers. Ms. Peterson stated that it must be posted by Friday afternoon in the Bourne Courier and by next Weds in the Bourne Enterprise. Mr. Hanscom asked if that would be billed to him. Ms. Peterson stated that it is the Board of Health's notice and to keep things everything the way it is supposed to be the bill should be paid by the Board of Health. Ms. Coffin stated that since the Gallo's paid Sitec directly she would write a letter to release the \$1800.00 back to the Gallo's that has been held in a performance bond instead of an escrow account. Ms. Peterson stated that they need to have the public hearing fee put into an account. Mr. Hanscom suggested that they take the amount that Sitec calculated which was \$3731.25 which would keep everything straight. Mr. Hanscom suggested replenishing the technical fee in the amount of \$1000.00 and the Board can always request more if needed. The Board Members agreed. Ms. Peterson stated that she wanted to be clear that the \$3731.25 was not part of the \$1000.00 fund. Mr. Hanscom stated that it was a separate calculation and would be reimbursed to the Gallo's if not used. Ms. Coffin stated that Mr. Hanscom has responded to the comments from Sitec and she has given those responses to the Board. Ms. Coffin stated that the Board has to determine that the site suitability report is complete in order to have the public hearing. Ms. Coffin stated that one of the issues was groundwater and another one was the State had to consider a

waiver and that has not been decided yet. Mr. Hanscom stated that he would like to address Sitecs concerns. Mr. Hanscom stated that the Gallo's had requested and were given a refund of the original \$8600.00 from the State because they are no longer involved so that issue is gone. Mr. Hanscom stated that the issue of the 60 days is off the table because they are now on a schedule and they have established what that schedule is. The hearing fee and the additional technical fee have also been resolved. Mr. Hanscom stated that item #4 is referencing the waiver. They have submitted a request to the DEP commissioner in June and have not responded. They will contact her office again. Ms. Peterson stated that he should tell her that the hearing is on March 2 and they have to get this done. Mr. Hanscom stated that in lieu of that as suggested by Sitec maybe a conditional decision on the part of the Board conditional on the approval of the waiver would be appropriate. Mr. Hanscom stated that the floodplain is not an issue. Ms. Coffin stated that that has been verified. As far as the closed building and nuisance conditions Mr. Hanscom stated that they do consider this a closed facility. They have not had any complaints in over 15 years and do not expect that there would be any in the future handling of wet ash. The only difference is that they may temporarily store the ash in a rail car and then transfer it into a truck or separate off site management. Because the ash is more of a waste material they are going through the site assignment and transfer process. It would be transferred to the trucks once they got 20-22 tons and then shipping it off to an approved off site management facility. Mr. Andrews asked about the specific moisture content of the wetted ash. Mr. Hanscom stated that it is visibly wet and freezes in the winter. They also wet it down in the summer if it starts to dry out in the handling process so there would be no visible dust emissions. They have an operation maintenance manual that they will be updating for this facility. Mr. Hanscom stated that the Board could make part of their approval that the operation and maintenance manual be provided to the Board which would address the issue of the wetted ash. Mr. Hanscom stated that with respect to groundwater he has just received the environmental reports on the adjacent site which has the monitoring well information. The groundwater at the site is approximately 10 ft below grade, 18ft below the waste handling floor plus or minus and 11ft plus or minus below grade at the rail siding. Mr. Hanscom stated that, regarding traffic, there will be a maximum of six trucks on any day that will be coming to the facility and if it were during a high traffic period they would not be trying to transfer ash. They would schedule their shipments away from the peak traffic volume. There would be a maximum of two trucks shipping from the site at any one time. Mr. Barlow stated that their trip would consist of traveling from the Power Plant in Sandwich to the facility and once in a great while send a truck out. Mr. Hanscom stated that they are only going to the Mirant Plant to bring ash and temporarily store it. Once they have 20-22 tons, enough to fill up a truck, they will be shipping it up to waste management probably in New Hampshire. Ms. Coffin asked if Mr. Hanscom knew what the hours of operation would be. Mr. Hanscom stated that it would be normal working hours and could be conditioned by the Board if they would like. On occasion Mirant has had emergencies but that would only be once or twice a year. Mr. Hanscom stated that there is also a secondary access egress.

Ms. Peterson stated that she would like to see it locked while any transportation of ash is being done. Mr. Hanscom stated that the Board can condition anything they would like on their approval. Ms. Peterson stated that maybe the door could only open from the inside so no kids could open the door and get in for safety reasons. Mr. Hanscom stated that there really isn't much to the facility. Ms. Peterson stated that she is concerned about the secondary door in the back. Mr. Hanscom stated that maybe they can put in a panic bar. Mr. Hanscom stated that they took the bio map and habitat plans concerning wildlife in the area which should be adequate. Ms. Coffin stated that she has checked the maps. Mr. Hanscom stated that he does not believe that they really need a letter from them regarding that issue. The operation is almost identical to the existing operation except for the transfer from the rail car to the truck. The facility lay out plan was included in the original application. Mr. Hanscom stated he had copies with him if the Board wanted to see them. Ms. Peterson asked if there was anyone in the audience for Sagamore Truck & Rail. There was not. **Mr. Andrews made a motion to have Ms. Coffin return the \$2000.00 fee that was submitted by the applicant and also that a public hearing fee of \$3731.25 as well as \$1000.00 for additional technical review be assessed. Ms. Tinkham seconded the motion. All in favor and the motion PASSES. Ms. Peterson made a motion that the Bourne Board of Health suitability determination on January 19, 2011 has been proven acceptable and that they can now move on to the public hearing with a hearing officer. Ms. Tinkham seconded the motion. All in favor and the motion PASSES.**

5. **Pocasset Mobile Home Park-Discuss & Vote** regarding 2011 Mobile Home Park License-Ms. Peterson stated that the attorney for Mr. Austin was not available for the meeting tonight. Ms. Peterson stated that she does not see Mr. Austin here and asked if there was anyone representing Mr. Austin. Ms. Coffin stated that Mr. May had been there but had left. Ms. Peterson asked if Mr. May was coming back. Rick Damon stated that he had spoken to Mr. May in the parking lot and stated that Mr. May had another engagement and was not coming back. Ms. Peterson stated that, for the record, there is no one representing Mr. Austin this evening though they have been notified in full compliance with Board of Health regulations that their license hearing would be this evening. Ms. Peterson stated that the Attorney General had an emergency hearing in Boston on Tuesday of last week and it was continued until Feb 3, 2011. The judge looked at all of the pictures of Mr. Austin trying to pump his own leach field. There have been 3 different instances of emergency pumping. Ms. Peterson stated that she would like to thank the Board of Selectmen and Mr. Guerino for coming to their rescue on a Saturday afternoon and allowing Town funds to be used to pump the leach field on December 18, 2010. The second emergency pumping was at the tanks by the trailer. The second time the leaching field was pumped the escrow account was accessed through the Attorney General. There were approximately 7000 gallons taken each time. The third emergency pumping they were pumped dry. Ms. Coffin is going out there every day to make sure there are no overflows. Ms. Coffin stated that they did voluntarily pump it out today. Ms. Peterson stated that

the Attorney General has asked the Bourne Board of Health through Town Counsel and Ms. Coffin to issue a 60 day license only for the purposes of seeing the result of the court action on February 3, 2011. With the issuance of that license Ms. Coffin has spoken with the AG and she has gone over the regulatory items that the Board would like to put into place to issue the license. Ms. Peterson stated that she will go over all the conditions now and thanked the residents for attending the meeting. Ms. Coffin stated that they made a change to the first condition because they thought they had taken care of the issue with occupancy of trailers and they did not want any of the owners not to be able to rent their trailers out. It came up after the fact last year that Mr. Austin had trailers that had been vacant and those had then been reoccupied. Mr. Andrews stated that he thought that had been addressed and the Board did not want any new trailers going in. Ms. Coffin stated that it is the potential occupancy of trailers owned by Mr. Austin that are presently empty. Mr. Andrews asked how many unoccupied trailers there were at this time. Ms. Coffin did not know. Ms. Peterson stated that she believed at that meeting that the Board had said that the owners were being allowed to rent their trailers and the Board was not stopping them. Ms. Coffin agreed. Ms. Coffin stated that she knows Mr. Austin had some of his trailers occupied. Ms. Coffin stated that the conditions in black were what the Board voted (see attached). There was general discussion about the wording of the conditions and the fact that there have been approximately \$90,000 in fines issued to Mr. Austin for not following the conditions of the license. Ms. Peterson is concerned that the 6 hour time limit to address any pumping emergency is too long. Mr. Andrews stated that it takes time to mobilize equipment and to possibly cut it back to 4 or 5 hours but no less than that. Ms. Peterson stated that 3 times they have waited for Mr. Austin to even take a phone call. Mr. Barlow stated that the idea of having to ask Mr. Austin to pump is not working. Ms. Peterson stated that once Mr. Austin says he is not going to pump they can go to the escrow account and use that for emergency pumping. Ms. Peterson stated that Ms. Coffin should only have to make one phone call. Mr. Barlow stated that if Ms. Coffin sees an overflow she has the authority to pump it because it is a public health issue. It was decided to issue a \$300.00 fine per day per trailer if within 4 hours of the documented violation there is not a contractor on site working to correct the problem. Ms. Coffin stated that she believes the fines are unreasonable. Mr. Barlow stated that he understands what Ms. Coffin is saying. Ms. Peterson stated that it was Town Counsel's opinion that the fines would hold up in court. The Board of Health must be made aware of all contracts such as park manager, emergency maintenance personnel, pumping contractor, and underground sewer repair contractor or a fine of \$10.00 per day per trailer will be enforced. Ms. Peterson stated that she believed that this requirement was also ordered by the judge in the case against the trailer park. Ms. Coffin stated that she knew they had ordered that the escrow account be replenished but was not sure what else the judge had ordered. Ms. Coffin stated that she spoke with Tracy Triplett that day and Ms. Triplett told her they should bring up the twice monthly inspections, the twice monthly pumping of the tanks, and the once a month pumping of all the leach pits. Ms. Peterson stated that Ms. Triplett had emailed Ms. Coffin three or four documents. Ms. Coffin stated that

she had not been feeling well and probably didn't open them all. Ms. Peterson stated that looking at the documents, Jeremy Carter, Mr. Austin's attorney, said the immediate response person is Don May. Ms. Peterson stated that they thought the 24 hour contact person was David McCarthy but now find out that it is Don May. Ms. Coffin stated that David McCarthy is more on site if there is a backup or an issue like that and that she calls both of them when there is a problem. Ms. Peterson stated that the court said to call one of them. Mr. Andrews stated that according to what was presented the contact was Don May. Ms. Peterson asked if Ms. Coffin could go online now and check those emails from the AG to check to see who the contact person was. Ms. Coffin stated that she could not get access to those documents from here. Ms. Peterson stated that the next condition states that there will be a competent on site manager available 24 hours a day which the court also ordered. Ms. Peterson stated that in consistency with the amended preliminary injunction order issued on December 10 a licensed septage hauler shall pump out and dispose of the contents of all the septic tanks as often as necessary but at least twice per month and all leaching pits as often as necessary but at least once per month to prevent overflows of sewage to a home or the ground surface and backups of sewage. The Park must maintain a contract with a licensed septage hauler as a first responder to conduct such work and submit a copy of every contract to the Board of Health within 24 hours of execution and provide copies of the pump out receipts to the BOH within 48 hrs of pumping. Mr. Andrews stated that they had already covered that in another condition. Ms. Coffin stated that she just did that on a local level to back up what they were doing on the State level. Mr. Andrews stated that he liked that the BOH office be notified so that they can be aware of how many times and how much they are pumping. Ms. Coffin stated that they are reporting to her every time they are pumping. Mr. Andrews stated that he did not want that to tie into the preliminary injunction in case it was ever thrown out. Ms. Coffin will make that correction. Mr. Barlow stated that they will reevaluate the conditions in 60 days. The Board will also require that twice a month a licensed Title V inspector evaluate the condition of all components of the system, in the presence of a representative of the BOH to ensure that it does not pose an imminent threat to public safety. The inspector must provide a written report to the BOH within 48 hours of the evaluation. Mr. Andrews asked if Ms. Coffin could insure that it doesn't pose an imminent threat to public health and safety doing an inspection like that. Ms. Coffin stated that she was just repeating the wording in the judge's order. Ms. Coffin stated that if it is not overflowing she can only insure that it's not on the ground which would mean that it's not an imminent threat. It is required that all representatives of the BOH shall be allowed access to the Pocasset Mobile Home Park to conduct any inspections related to the safety and well-being of the Park residents and the environment. Ms. Peterson stated that the next condition has nothing to do with the \$10,000 that the State has required of Mr. Austin. The Board of Health will require a \$20,000 escrow account to be set up with the Town of Bourne for the purposes of having funds available to pay for any required pumping in the event of a backup or overflow that is not taken care of by the owner or cannot be done using the escrow account originally established per order

of the Suffolk Superior Court. Ms. Peterson stated that the funds should also be used to plow the leaching area because the State doesn't want to use the funds to plow, which she can understand, but you can't pump it if the area is not plowed. Ms. Peterson stated they need an immediate 24 hour plowing contractor to be able to have access to plow the leaching field. Mr. Barlow stated that it should read that the road to and throughout the pit area must be plowed and accessible by a pump out truck at all times. Mr. Barlow stated that the \$20,000 escrow fund held by the Town could be used for plowing and pumping. Ms. Peterson stated that there was an instance where the pumping truck could not get to the pits and Mr. Austin would not plow it and that was a threat to public health. Mr. Barlow stated that he would like to require that a six foot chain link fence be installed so that it completely encloses the leaching area, with a locking gate to provide access for pumping and inspection. Keys will be made available to the Board of Health and emergency personnel through the issuance of keys or a Knox box. Ms. Peterson stated that they had sent an affidavit to the AG's office that said that the police were witness along with Ms. Peterson and Mr. Andrews to a young boy riding a motorcycle through the septage. Ms. Coffin stated that she is concerned with the fact that people that need to get in to pump may not be able to gain access without a key. Mr. Barlow stated that if they do not have a key they can call the fire dept or police dept who can come down and open it up. Ms. Peterson stated that these conditions are set forth for the 60 day temporary license only for purposes of seeing the result of the court action which will be February 3rd. The license will be valid for 60 days from tonight and may be amended in any form based on the Suffolk Superior Court decision on the Attorney General's motion for Receivership. Ms. Peterson stated that for instance, on Feb 3rd or sometime in the next 60 days it seems that there will be a determination more than at any other time and at that point if there is a determination the receiver would have to come in front of the Board of Health and they would like to give him or her time to get organized and speak with the Health Agent and get all the proper legal channels set. Ms. Peterson stated that the issuance of this license is in no way a statement that the Pocasset Mobile Home Park septic system meets the minimum sanitary standards of Title 5, or DEP's Groundwater Discharge rules, or DEP's order to the park's owner to upgrade the present failed septic system or the wastewater treatment plant, necessary infrastructure and leaching facility, but is instead an attempt to protect the rights of the residents within the Park. Ms. Peterson stated that she would now take public comment on the license issue. Tony Fucci asked what would happen if after the 60 days Mr. Austin does not comply. Ms. Peterson stated that Town Counsel advised, if that does happen, that the Board would have to decide whether to issue him another 60 day license. Mr. Fucci asked if they were going to get a notice to vacate the park at some point. Ms. Peterson stated that she could not answer that and that the Board is trying to protect the tenants and their public health with a reasonable place to live and the only way to do that is to order the funds to be available so they can be accessed when needed. Mr. Fucci asked if the BOH was aware that their rent had gone up. Ms. Peterson stated that the BOH has nothing to do with the funds that are or are not collected. Mr. Fucci stated that according to a document from 2009 Mr. Austin can't pass on any

additional fees concerning the park. Ms. Coffin stated that she has told anyone that has a complaint about the rent increase or icy roads to contact Teresa Walsh at the Attorney General's office because she deals with that section of manufactured housing. Rosalee Cole, resident, stated that nobody understands why Mr. Austin is not in jail. Ms. Peterson stated that all the Board is concerned with is that the residents have a reasonable health standard with what they have to work with. Ms. Peterson stated that no one has been able to answer her question as to what would happen if the Board didn't issue the license. Ms. Peterson stated that she is assuming that by putting these conditions on the license they are protecting the public health and allowing the residents to continue to live there. Ms. Coffin stated that that is why the AG's office has taken Mr. Austin to court and is trying to get the receivership to get the park taken care of. Ms. Cole asked if the fines against Mr. Austin will go to the Town. Ms. Coffin stated that if the fines are collected they will go to the Town. Mr. Andrews stated that it is a long process that they will have to go through to collect the fines. Mr. Barlow stated if the fines are collected that money goes into the general fund not the Board of Health. Mr. Damon, previous park manager, asked when contact numbers would be posted on the Board. Ms. Peterson stated that as of Tuesday they had been ordered to do it within 24 hours. Mr. Damon asked who the on site manager was. Ms. Peterson stated that according to Jerry Carter it was Don May. Ms. Coffin stated that Don May was the 24 hour contact person. Ms. Peterson stated that they will clarify that issue tomorrow. Ms. Coffin stated that David McCarthy is still the person to call for local issues. Ms. Peterson stated that she has spoken to Mr. McCarthy and he tries his best but he is working with the same situation that the Board is working with. Ms. Peterson stated that that is why they are requiring \$20,000 be put into escrow for the Town of Bourne. Mr. Damon asked if that money could be used to sand the streets. Ms. Peterson stated that they could talk about that if it becomes a health hazard. Maggie Berg, resident, stated that her and her husband are disabled and are concerned about the plowing situation and the condition of the roads. Ms. Coffin stated that when she was out there the roads had been plowed. An audience member suggested taking pictures of the road conditions and show it to the judge if they go to court and also suggested putting all their rent money in escrow. Sandy Tothman, resident, asked if when the pit fills does that put the system under distress and how often do they have to be pumped. Ms. Peterson stated that they are monitored daily and have had to be pumped every two weeks. Ms. Coffin stated that they are supposed to pump them every month or more to prevent an overflow. Ms. Tothman asked if all the snow and rain was contributing to the overflows. Ms. Coffin stated that it is probably not helping but if a pit is working properly it doesn't contribute. Ms. Tothman asked if Mr. Austin did not get a license after 60 days are the residents obligated to pay rent to a place that does not have a license. Ms. Peterson stated that the Board of Health has nothing to do with the rent issues. Mr. Barlow stated that they are waiting for a decision from the court that will hopefully put it into receivership and are going to issue 60 day license and does not want anyone if the room to think that at the end of the 60 days that will be it. Ms. Tothman stated that she understands that. Mr. Barlow stated that the BOH is working with the AG to

get the system working up to today's standards. One of the audience members asked exactly what the receivership would mean. Mr. Barlow stated that the court will appoint someone competent to operate the park. Ms. Peterson stated that it would be an independent person who has nothing to do with the State or the Town and will be appointed by the Court. Ms. Peterson stated that the receiver will be the one providing the BOH with contact information for the Park staff. Ms. Tothman asked if the person appointed receiver would have to report to the court. Ms. Peterson answered yes and will be monitored and would have to show proof of payment for any payments paid out. Mr. Andrews stated that the resident would pay rent to the receiver instead of Mr. Austin. Ms. Tothman asked where the money would come from for the receiver to make the repairs. Ms. Coffin stated that some receiverships can access monies from the owner but she is not sure what form of receivership this will be until it goes forward. Ms. Berg asked where she should call in an emergency situation. Ms. Peterson asked if she was talking about a health emergency. Ms. Peterson stated if it was not a health emergency then she should call the police like she did when she was out there and asked him to witness what was going on and he in turn called the fire dept who called Ms. Coffin. They are the only people in an emergency that have the authority to do what you need them to do. Ms. Peterson stated that you have to weigh what is an emergency at the time but the residents should call emergency personnel if that 24 hour number is not available. Ms. Peterson stated that they should give the 24 hour contact person at the park 30 minutes to return their call. Mr. Lucci asked if they, as residents, would be heard at all during the receivership proceeding. Ms. Cole stated that she spoke with the AG's office who told her that any letters they receive will be forwarded to the judge. Collett Doucette asked if they would make sure the roads have been sanded because she has almost slipped quite a few times. Ms. Coffin stated that she does consider that a safety issue. Ms. Peterson stated that if the residents cannot get out of their roads in an emergency situation they should do what anyone else does in that same situation and call the DPW. **Mr. Andrews made a motion to issue a 60 day license to the Pocasset Mobile Home Park specifically for the purpose of seeing the results of the court action which will be on February 3, 2011. The Board of Health will grant a 60 day license with the following conditions set forth that are listed in the letter dated January 19, 2011 with the following omissions and adjustments. Item #1-strike the word Mr. Austin and replace with the wording Park Owner. Item #3-replace six hours with four hours. Item #4-delete entirely. Item #7-deleting the first line all the way to the first comma and beginning with a licensed septage hauler. Item #10-to adjust and address the plowing of the leaching field area and accesses and that that escrow account be able to be used with the same stipulations. Item #11-requiring that the whole leaching area be contained by a 6 ft high chain link fence gated for access for pumping and some means of access by the Bourne Board of Health and all emergency personnel with keys to the gate or Knox box. This wording be sent to the Board of Health members and Town Counsel to confirm prior to issuance of the license. All phone numbers must be updated with the current contact information for Park emergency personnel within**

24 hours of this meeting. Mr. Andrews stated that they are supposed to be doing that now within a 12 hour period with a \$10.00 per trailer per day fine. **Mr. Barlow seconded the motion. All in favor and the motion PASSES.** Ms. Cole asked how the Board would go about fining Mr. Austin for renting out trailers when he wasn't supposed to be. Ms. Peterson stated that one of the conditions of the 2011 license states that *as long as the upgrade to the failed septic system at the Pocasset Mobile Home Park has not been completed no new trailers will be allowed, nor will the occupancy of any vacant trailers owned by the Park owner be allowed.* Ms. Coffin stated that she would have to investigate by complaint. Mr. Andrews suggested maybe sealing the door of each vacant trailer. Ms. Coffin stated it would be easier having the residents call if they see someone moving into a vacant trailer. Mr. Barlow agreed.

6. **Update by Stanley Andrews-ISWM Business Model Working Group and Sewer Wastewater Committee Advisory Board-**Mr. Andrews stated that he would give the update at the next Board of Health Meeting.
7. **53 Main St.-Diamond Mind Tattoo-Timothy Creed-Discuss & Possible Vote** regarding amendment to section 124.004 subsection (L) to lower the client age to 18 years.- This item was moved down from #2 because Mr. Creed was not present at the meeting at the time. He has arrived so the item discussion can continue. Ms. Peterson stated that the Board had discussed this earlier in the meeting but wanted to wait until Mr. Creed arrived to answer their questions. Mr. Creed stated that as a taxpayer he would like to have a business that allows him to tattoo clients that are within that age range. Mr. Creed stated that he believes that the first tattoo a client gets is probably the most important one and should be a good one and believes that as a Town they should be able to provide that service. Mr. Creed stated that the person giving the tattoo should be qualified to educate the public enough to make that a possibility and believes that he can do that. Mr. Creed stated that education and continuing education in the law that would be strict enough to maintain the ability in the process which is a safe public. Mr. Creed stated that if the age were 18 maybe the Town would be interested in making a requirement of every three years a continuing education of 15 hours between seminars, first aid or CPR. Ms. Peterson stated that she had called the Bourne Police station who told her that they have not had any issue's with Mr. Creed's business. Ms. Peterson stated that she is concerned about age violations and would like to know how Mr. Creed takes that seriously and will make sure that the clients are not under age as it is difficult to tell the difference between a 16 or 17 yr old and an 18 yr old. Mr. Creed stated that he will be reasonable with every client and they must present a proper ID and he will make every effort to make sure that they are who they say they are and that they are presenting themselves properly. He will photocopy every license which must be a State issued ID. Mr. Barlow stated that he is happy with keeping the age at 21 even though Wareham and surrounding towns are 18. Mr. Barlow stated that he knows it's an issue getting into some military services with tattoos and a lot of kids, just graduating from high school, with the economic situation as it is, are going to have to find

their way into the service which would also pay for their college education but they would not have that option if they have tattoos. Mr. Barlow stated that he may agree if they required that a parent accompany them and give parental consent. Ms. Peterson stated that talking with the Bourne police they were concerned that an 18 yr old may go to a house party and have a friend give him a tattoo. They would prefer that a licensed tattoo artist that can be regulated and inspected by the Board of Health be the one to give a tattoo. Mr. Barlow stated that they made the age 21 in the first place because they did not want kids under 21 to get a tattoo. Mr. Barlow stated that there are certain things like drinking that kids under 21 are not supposed to be doing and parents are still responsible for them. Mr. Creed stated that at 18 you are old enough to give your life for your country and he would rather see the kids get a tattoo in a legal controlled manner rather than a home party. Mr. Barlow stated that he understands Mr. Creed's position. Mr. Stanley stated that he would appreciate Mr. Creed sending more information to Ms. Coffin on the educational aspect of his business. Mr. Andrews asked if Mr. Creed goes over any potential health effects when a 21 yr old comes in his shop for his first tattoo or post any of these warnings about not getting into the service with a tattoo somewhere in his shop as a public service. Mr. Creed stated that he believes it is the duty of the tattoo artist to educate his client and he has no desire to tattoo anyone that comes in and asks for any kind of inappropriate tattoo. Mr. Creed stated that it does not benefit his business to be reckless and tries to perform on an upper level and not just provide a tattoo for cash. Mr. Creed stated that it is not a money thing but is about the art. Ms. Peterson stated that there was a problem in NH with a young man who had learning disabilities who had his friends come over and give him a tattoo. The parents were very upset and some of the kids were arrested which shows that the house parties are real. Mr. Barlow stated that he knows they are real and probably happen right in Buzzards Bay. Mr. Barlow stated that the fact is that if you are going to lower the age requirement to 18 the parents should have the opportunity to know what's going on. Mr. Andrews stated that parents are responsible until they turn 18. Mr. Barlow stated that he believes they are responsible until they are 21. Ms. Peterson stated that the fact that the parents know or not is not really a health issue. The health issue is that the present regulations state the age requirement is 21 to get a tattoo in Bourne and Mr. Creed is asking for that age requirement be lowered to 18. Ms. Peterson stated that Mr. Creed makes copies of all the licenses front and back. Mr. Andrews stated that he would not have a problem with it as long as they put in some stipulations such as some type of education provided to the client. Mr. Barlow stated that they had this same discussion when they first wrote the regulation with different Board members then but they came up with the age of 21. Mr. Mulvey asked if there was any type of disclaimer the client has to sign. Mr. Creed stated that there are Board of Health regulations that require that information on the form that the client must sign before you get a tattoo that he might be able to add to saying something about the not getting into the service with a tattoo. Ms. Peterson stated that the Board of Health does not have enough personnel to be checking all the forms Mr. Creed may have people sign. Ms. Peterson suggested lowering the age to 18 on a trial basis. Mr. Andrews stated

that he did not want to do that without the precautions put in as part of the regulations. Ms. Peterson stated that they could not change the tattoo regulations tonight because that was not posted. Mrs. Creed stated that Mr. Creed is a world class tattoo artist and has to turn away clients that are under 21 to go to another town and get a tattoo of less quality because they are not 21. Mrs. Creed stated that they are parents, live in Sagamore Beach and are very active in the community and like having their business in Bourne. Mr. Barlow stated that he does not have any problems with tattoo and is just concerned with the fact that it might limit acceptance to the military. Mr. Creed stated that there are different limitation in the military such as tattoo size and coverage and usually there is a small amount of skin showing. Mr. Creed stated that he believes those concerns are reasonable and knows growing up himself with tattoos he had to present himself in a way beyond the tattoos and it was more difficult. **Mr. Andrews made a motion to change section 124.004 subsection (L) by lowering the age from 21 to the age of 18 years of age. This being at the request of Timothy Creed, Diamond Mind Tattoo.** Mr. Andrews stated that he would like to have continuing education a part of the new regulations. Ms. Coffin stated that he should draft something and send it to her. Ms. Peterson stated that she wanted to be clear that if there are any problems with under age clients the Board of Health will take their license. Mr. Creed agreed. **Ms. Tinkham seconded the motion. Mr. Andrews, Ms. Peterson and Ms. Tinkham are in favor. Mr. Barlow is opposed. The motion PASSES.**

- 8. Approval of Minutes dated December 8, 2010-**Mr. Barlow stated that on page 10 there was a statement made by Mr. Andrews that was actually made by Mr. Barlow. Mr. Barlow made the correction. **Mr. Andrews made a motion to APPROVE the minutes of December 8, 2010 with changes. Mr. Barlow seconded the motion. Ms. Tinkham abstained from the vote as she was not at the December 8th meeting. All others in favor and the motion PASSES.**

- 9. New Business-**Ms. Tinkham stated that she was walking near the high tension wires in Bournedale and her husband pointed out that the power lines had been sprayed with an herbicide. Mr. Andrews stated that they did that last year before a moratorium was placed on it by the County. Mr. Andrews stated that he believes that the moratorium will run out soon and NSTAR has intentions to resume that process. Mr. Andrews stated that they had said they did not spray in Bourne but he believes that NSTAR does not have the town lines correctly and were off by ¼ to ½ a mile. Mr. Andrews stated that in the easement of the power lines there was some spraying of the vegetation. Mr. Andrews stated that this should be addressed at a future meeting. Ms. Peterson suggested discussing it the first week in April.

Mr. Andrews made a motion to ADJOURN. Mr. Barlow seconded the motion. All in favor and the meeting was adjourned at 9:25 P.M.

Taped and Typed by Kathy M. Burgess for the Bourne Board of Health

Respectfully submitted by the Bourne Board of Health

Kathleen Peterson_____

Stanley Andrews_____

Galon Barlow_____

Donald Uitti_____

Carol Tinkham_____

cc Board of Selectmen/Town Clerk