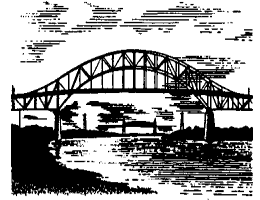


**TOWN OF BOURNE  
BOARD OF HEALTH**  
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Cynthia A. Coffin,  
Health Agent

**MINUTES**  
**August 10, 2011**

**Members in attendance: Kathy Peterson, Chairman; Stanley Andrews, Vice-Chairman; Galon Barlow**

**Support Staff in attendance: Cynthia Coffin, Health Agent; Melissa Chase, Secretary**

**Meeting was called to order at 7 pm.**

**1) WindTurbine: Discuss and vote on draft wind turbine regulations**

Ms. Peterson stated "After many hours of public meeting and public input regarding health effects of wind energy convergence systems (WECS), we the Bourne Board of Health will take a vote to pass on our regulations. We want to thank everyone who spent time during all of the public discussions that we had. We hope that we were fair in listening to everyone. We tried not to curtail anyone too much. At the end of July (the 19<sup>th</sup>) we were supposed to pass these regulations but DEP stepped in. They felt we hadn't publicized them in the newspaper correctly." Town Counsel felt the BOH had, but didn't want to rush. They were put in the paper for another 2 weeks because that is what DEP wanted. There have been no discussions with DEP; Ms. Peterson stated that neither she nor any Board members have had any discussions with DEP. There have been no unpublicized meetings that have taken place. Every single discussion has been full and open to the Town and allowed for public comment. Some may think the Board isn't strict enough; some will think the Board is too strict with public health. We (the Board) feel confident that these regulations will stand scrutiny. We have followed to the letter our requirements and then some for regulations. We have worked very closely with Attorney Brian Wall, who is Associate Town Counsel; he has been a great help with this. All through the process he has been invaluable; the Office has been great. Every single person who has spoken and talked with us for hours upon hours of public comment, which is all on record, we thank you because this has been a long and arduous process. With that said, Ms. Peterson asked for comments from the Board. There was no request for discussion or comment by the other Board members. Ms. Peterson added that there was an addition of an enforcement section to the regulations (item 7). That has been put in by Town Counsel. The only other change will be on the date of adoption in paragraph 2; it will read August 10, 2011.

**Mr. Andrews made a motion for the Board to adopt the regulations for the Town of Bourne regarding WECS. Mr. Barlow seconded the motion. The motion passed unanimously.**

Ms. Peterson asked for a 5 minute recess to allow the public in attendance for this agenda item to disperse. Mr. Andrews motioned for a 5 minute recess; Mr. Barlow seconded the motion. There was a 5 minute recess.

(Agenda items 2, 3, 4 were taken out of order to allow for arrival of involved parties)

**5) 2 Wabash Ave—Don Bracken for Carl Turgeon/Sandra Bender: Discuss and vote on request for variance to upgrade septic to convert existing 1 bedroom house to a 2 bedroom dwelling**

In attendance regarding this matter were Don Bracken from Bracken Engineering and home owner Carl Turgeon. Mr. Bracken stated that he had brought this project before the Board about a year ago for an informal discussion. The current house is a single story ranch. It has a new septic system installed in 1993, which is designed for a 2 bedroom. The house, when it was rebuilt, removed the second bedroom and replaced it with a closet. There is a 2 bedroom septic system on site. The owner would like to add a second story, adding a second bedroom back into the floor plan. The total square footage is just over 1200 sq/ft. When Mr. Bracken came before the Board previously, the Board was agreeable to allowing a 2 bedroom deed restriction provided that the system was relocated, allowing a 150 ft. setback from the salt marsh located to the North of the property, and a pressure dosing system added. They have come before the Board now with an engineering plan doing just that. Mr. Bracken stated that he and the Agent were at the site in the time frame of last year's informal meeting, the system was inspected. The system was functioning 4 feet above groundwater table. A monitoring well was installed and readings were taken over a couple of months with an automatic reader so the exact fluctuations were able to be obtained. The new design has a 5 foot separation from ground water, relocating it to be 150 ft. from the salt marsh. Coastal geologist Stan Humphreys from LEC Consultants delineated the coastal dune bordering the property (this was a concern during the previous informal hearing). The proposed system has been moved to be 50 feet from this coastal dune. The coastal dune is not a direct water resource area, but is part of the reason for the pressure dosing because of the proximity to the dunes. The project has received approval from the Conservation Commission. They have also gone through the Board of Appeals for the reconstruction of the house, and it has been approved. Mr. Bracken stated that it is a modest sized house for the size of the lot in comparison to other homes in the neighborhood. The net result will be the same amount of people residing in the home, the same amount of bedrooms as the home originally had which the Board had already approved for the site, and a much better treatment of the effluent for the benefit of the groundwater in the area. Ms. Coffin stated that she felt it is a better system and a better separation, and she doesn't really have a problem with it. It is far enough away from both of the resources that are areas of concern. Mr. Barlow pointed out that it is not a system that is designed to have a garbage disposal. The engineer and home owner both agreed to that.

**Mr. Andrews made a motion to allow a 100 ft waiver from the coastal dune for the soil absorption system for 2 Wabash Ave, that it have a 2 bedroom deed restriction,**

**and with the stipulation that there is to be no garbage disposal on site. (Plans are dated received July 14, dated 6/30/2011; architectural are dated received July 14, date drawn October 18, 2010.). Mr. Barlow seconded the motion. The motion passed unanimously.**

**6)290 Barlows Landing Road—Don Bracken for R. Hunter Scott: Discuss and vote on request for variance to install a new Title V system for a proposed 5 bedroom dwelling**

The Board allowed Mr. Bracken to withdraw the application and resubmit the application due to a missing abutter notification.

**3)17 Holly Circle—continued: Failure of owner Charles Lowney to respond to housing violation order**

There were no audience members present in regards to this matter. Health Agent Cindy Coffin had an update for the Board. Ms. Coffin related that Inspector Furtek had gone to the property earlier in the day. Most of the work had been done, but all the work had yet to be completed. Ms. Furtek emailed Mr. Lowney, saying that there was a misunderstanding with the contractor. He apparently stopped working because of weather related issues. The contractor is supposed to be out to the property and have exterior work completed by the end of the week. Ms. Furtek also received a letter signed by the tenant Mr. Barton certifying that he was in agreement with the builder to finish the interior work. It does appear that the contractor, the tenant and the owner are all on the same page, and the work should be done by the end of the week. Ms. Peterson requested that 17 Holly Circle back on the agenda for the September 14<sup>th</sup> meeting for final closure, with the stipulation that if the work isn't done, the Board will go back and fine them from today's date (August 10) forward.

**Mr. Andrews motioned to continue 17 Holly Circle to September 14 with the provision that fines can be assessed as of this date (Aug 10) if work is not completed to the satisfaction of all parties for the items listed on the housing complaint. Mr. Barlow seconded the motion. The motion passed unanimously.**

**4) Pocasset Mobile Home Park (PMHP)—Attorney Chuck Sabatt request for modification of, and extension of, existing permit for the PMHP**

Attorney Sabatt stated, in respect to the conditions, when he was last in front of the Board, he broached the possibility of modifying some of the conditions of the current permit. The conditions in question are:

*Condition 7:* This requires a licensed inspector (currently using Bill Gilpin) to give a written report to the Board or its Agent 2 times a month. Attorney Sabatt stated that they have not been in complete compliance with the request, but feels that there has been good communication with the Agent, with keeping her informed of any complaints and staying in contact regarding any complaints or problems at the Park.

*Condition 9:* Requires a \$20,000 escrow account intended to pay for pumping and repairs. Attorney Sabatt stated that they are not currently maintaining an escrow account; he said he could do that, but that he has funds he has been using to repair the system, and he has obtained a loan through Barnstable County to undertake the most recent major repair done in March. He feels that particular condition was put in place because there

was not compliance by Mr. Austin. With Attorney Sabatt as court appointed receiver of the Park, he has a different mission and a different outlook. He feels that they are trying to maintain the system as best they can. He felt that the escrow requirement could be deleted as a requirement.

*Condition 10:* Requires a 6 ft. chain link fence around the leaching area. Attorney Sabatt felt that this was no longer needed.

Conditions 7, 9 and 10 are the items Attorney Sabatt wishes to have modified or deleted.

One minor point that Attorney Sabatt wished to make was in regards to vacant units at the Park that the Park owns. There are several "problem units" that he is moving as quickly as the system permits to correct the issues by way of evictions. It is his intention to remove the unit from the site ASAP after an eviction to prevent unauthorized habitation. He claims that there are several "squatters" – people that move in without his knowledge or his authorization. He is in the process of identifying them and removing them through legal means. He has, however, been contacted by a woman he believes to be credible who wishes to occupy a vacant unit. He is asking the Board for leniency on *Condition 1* (disallows occupancy of vacant Park owned units). He would like some allowance for discretion if he finds a credit worthy tenant.

Mr. Andrews addressed condition 7. He asked Attorney Sabatt what his issue with the requirement of the inspections was, whether it was the bi-monthly inspection or providing a written report. Attorney Sabatt stated that he has been having the system checked out on a regular basis; these are not a formal inspection with technical measurements, but the covers are lifted and the inspector does check the function. Mr. Barlow stated that he felt the Board didn't need the formal measurements. Ms. Coffin stated that she did recently check the main d-boxes to make sure the pits were still doing the job. The d-box was still working and was not full like it used to be. She stated that she would hate to lose total contact. She would like to go out with Mr. Gilpin once a month so she can take a look and head things off at the pass. Mr. Andrews stated that he would like to keep the lines of communication open. Attorney Sabatt agreed, saying that his concern was that he may not have been adhering to the letter of the law. Mr. Andrews says the Board is more just looking for a quick form letter dated and signed. Mr. Barlow stated that he was more concerned with maintaining the communication with Agent Coffin with Mr. Gilpin. Mr. Andrews addressed Ms. Coffin, asking if she would be satisfied with once a month report from Mr. Gilpin. She said she would be, as long as she was informed immediately of any problems that arise. Ms. Peterson stated that it could be added that the reports could be written or verbal. Ms. Peterson is also in favor of maintaining bi-monthly verbal reports. Attorney Sabatt was agreeable to this. Ms. Coffin asked Attorney Sabatt if the reports that he provides to Tracy Triplett at the Attorney General's Office include the status of the septic. He stated that it does include some non-technical information, i.e.: any repairs that have been undertaken, but not the type of information the Board may be looking for. Ms. Peterson stated that she just didn't want any surprises. She did seem satisfied with the current communication between the Agent and Mr. Gilpin. Ms. Peterson stated that on condition 9 in regards to the escrow account, she didn't have a problem with not requiring it. Mr. Barlow felt that, come the fall and winter, the situation at the Park may change drastically, and he recommends making sure

the receiver has money for those repairs. Attorney Sabatt suggested suspending the requirement until further order of the Board or until termination of the receivership, which would give the Board the option of reinstating the requirement. Mr. Barlow wanted to make sure that Attorney Sabatt was aware that in mobile home parks, pipes often freeze in cold weather and water might run more than before, and more water may come into the system. Ms Peterson addressed condition 10 (fencing around leach field). She felt that they were doing a good job keeping people out of the leaching areas. Attorney Sabatt stated that they did recently remove a bicycle jump ramp from the area, and people are asked to leave if they are seen in the area. Ms. Peterson stated that the concern had been the puddles of raw sewage, and that isn't an issue at this point. Mr. Andrews stated that the current leach pits are a temporary solution to alleviating the sewage issue. This temporary solution has the life expectancy of about 1 year, which would bring us to early spring; when the spring rains come in the potential for system failure is high. Ms. Peterson asked about the summary judgment due in at the Suffolk Superior Court. Attorney Sabatt said the judgment had come down (finding is attached at the end of the minutes). The Court decided in favor of the Commonwealth on count 1 (clean waters act). She (the judge) found against all the defendants on count 1; the parties have been ordered to attempt a resolution. He did not believe that there was a deadline for the resolution. He now has 60 days (until October 10) to issue his report to the court regarding the feasibility of an onsite wastewater treatment plant. Ms. Peterson asked what Attorney Sabatt was hoping to get for the extension date on the temporary license. Mr. Andrews had no problem with extending the temporary license to December 31, 2011 for regular filing, to get the licensing back on cycle, with the modifications discussed previously. Attorney Sabatt felt that needing to apply in December for January 1, 2012 would be reasonable. Before opening up to audience questions, Attorney Sabatt asked for clarification on condition 1 (no new tenancy in Park owned trailers). He did not want the condition waived, but rather the addition of language allowing the discretion of the Board of Health agent to adding a new tenant. Attorney Sabatt stated that he is not anxious to rent anything out, but wanted the ability to rent if there was a viable tenant. Ms. Coffin stated it could be stipulated that no Park owned trailers could be rented out without formal approval by the Health Agent. The floor was opened up to public comment at this point.

*Steve Marconi of 5 Third Ave:* He was concerned about the ability of an owner who wanted to sell their mobile home. Ms. Peterson assured him that the "no new occupancy" order applies only to trailers owned by the Park/ Mr. Austin. Personal owners may sell or do whatever they need to do with their own trailers. Mr. Marconi asked Attorney Sabatt if there were plans to do something with the main road coming into the Park. Attorney Sabatt stated that he had relied on advice given that the road could be sufficiently repaired with crushed stone. He is aware that the repair is not working. He has been further advised that cold patching might be a better solution, and he is waiting for the cost estimate on that. He is aware of the problem; he is still working on a more permanent solution. Mr. Marconi also expressed concern about the ability of residents in the rear of the Park being able to evacuate the Park in case of a fire in the front of the Park; there is one road in. He claims there used to be an old fire road which is now blocked off; currently the only secondary way out for many residents, including those that are handicapped, is into the woods. Ms. Peterson stated that this seems like an issue for the

Fire Department to be made aware of. The Board will not speak for other departments, but she asked for the Office to write a letter to the Fire Department (cc: Attorney Sabatt) expressing the concerns.

*Meg Berg of 2<sup>nd</sup> Ave:* Ms. Berg stated her opinion that a hot patch is a better solution for the roads than cold patch. It is how highways are patched. She and her husband are both disabled, and the roads are a major safety concern for them. Her other concern was that there are no fire hydrants in the Park. Ms. Peterson asked Ms. Coffin to add the hydrant concern to the letter being written to the Fire Department.

*Joanne Sundlock of 4<sup>th</sup> Ave:* Ms. Sundlock asked if the information regarding the summary judgment was available to the public. Attorney Sabatt stated that is public record through Suffolk Superior Court. Ms. Coffin stated that she had received a copy as well. *(Copies of the judgment have been made available at the BOH for interested individuals and also attached at the end of the Minutes)*

*Mr. Marconi* questioned whether or not he should continue to put money into his home if there is a possibility that the Park is going to be shut down. Attorney Sabatt stated that the next 60 days will be crucial. By mid October there should be a better idea as to the future of the Park. If the decision is made to shut down the Park, there would be an orderly plan in place for that to occur. Attorney Sabatt felt that they were far away from that point, but that they are at a critical crossroads over the next 60 days with the feasibility plan for the onsite treatment plant. Ms. Sundlock asked what was being taken into consideration over the next 60 days. Attorney Sabatt stated that he was in the process of getting an engineer to give cost estimates as to the construction and maintenance of an onsite treatment center. They are also trying to get a handle on the potential income of the Park. It is questionable whether the Park can generate sufficient income to build, pay the debt service on, and maintain an onsite treatment facility. Other issues are the roads, which will have to be torn up and replaced if a facility goes in, which is a substantial cost. The final issue is the water delivery system, which is, in his non-professional opinion, inadequate and is in danger of failure.

*Dennis Carter of 9 3<sup>rd</sup> Ave:* He questioned Attorney Sabatt about evictions from the Park, and asked if they were renting vacant trailers out. Attorney Sabatt stated that there are 11-15 complaints that have been drawn up and filed to be served on some of the occupants. Some are residents in Park owned units; some are privately owned units that are delinquent on their rent. There have also been notices issued for behavioral issues and non-compliance to Park rules/regulations. Attorney Sabatt reiterated that he is not renting out trailers in the Park. Mr. Carter asked who all the new faces in the Park are. Attorney Sabatt again stated that there have been issues with squatters who are unauthorized by the receiver to be living there. He is trying to identify and remove them through legal means. Although it can be a lengthy process, it is best and safest in the long run to comply with regulatory requirements about notices in a Park.

**Mr. Andrews motioned to approve the following amendments to the current license:**  
**Condition 1: No new trailers will be allowed on site, nor will the occupancy of vacant trailers owned by the Park owner unless approved under the discretion of the Board of Health Agent.**

**Condition 7: report may be a written or verbal report to the Board of Health**

**Condition 9 & 10: suspended until further order of the Board or until termination of the receivership**

**Extend the temporary license until December 31, 2011**

**Mr. Barlow seconded the motion. The motion passed unanimously.**

**7) 48 Bayhead Shores-Derek Hurd—Discuss and vote on the issuance of fines or any other action by the Board for failure to correct violations as cited on enforcement order dated June 1, 2011**

No audience members were in attendance in regards to this matter. Agent Coffin stated that there had been a complaint from a neighbor at the end of May. There were open trash bags, open containers, a mattress and open receptacles of hay and straw. Ms. Furtek reinspected recently; the trash had been removed, but the mattress was still there. Ms. Coffin felt the Board could vote a fine today or she could do something under the 21D ticketing bylaw.

**Mr. Andrews made a motion to impose a \$100/day fine starting August 12 until such time as they have contacted the office for a reinspection to show that they have satisfied all the violations stipulated in the letter.**

**Mr. Barlow seconded the motion. The motion passed unanimously.**

**8)485 Williston Rd—Anne & Robert Anderson ,Sr—Discuss and vote regarding the issuance of fines or other action by the Board for continued violation of the BOH pool regulations as cited in enforcement order dated June 8, 2011**

In attendance regarding this matter was Richard Anderson. Ms. Coffin received a complaint from a neighbor regarding an unfenced pool. After no response to the June 8 letter, she did go back out on July 12. Some water had been drained from the pool with at least 6 inches remaining and the access ladder was still in place, so it was still an attractive nuisance. Mr. Anderson thought that draining it would be sufficient, and didn't realize more was required of him. He stated that he would not financially be able to fence in the pool until next year, but agreed to finish draining the pool, remove the access ladder and tightly cover the pool within 1 week. He is to call the office for an inspection when the work is complete, and was given a maximum deadline of the September 14 meeting to do so. His attendance at the Sept 14 meeting will not be required if the Agent has signed off that the work is complete.

**9)5 Maritime Way—MaryAnne Duross- Discuss and vote regarding the issuance of fines or other action by the Board for continued violation of the BOH pool regulations as cited in enforcement order dated June 13, 2011**

No audience members were in attendance regarding this matter. Agent Coffin received an anonymous complaint, and went out for an inspection. After the first letter, Ms. Duross left a message after hours saying that it was too expensive to put up a fence. Ms. Coffin returned her call saying that was not an answer, and had not heard anything back since. Reinspections were done on July 14, and just recently; the pool is still there, still full, and still unfenced. Ms. Duross did call the office on Aug 8 saying that she would not be at the hearing because she had to work. Ms. Chase told her that she would be informed of the Board decision if she or a representative for her were not in attendance at the meeting. Mr. Barlow asked for clarification on what kind of fine was requested. Ms. Coffin stated that the fine regulation is a minimum of \$100/day. After debating a time frame, it was decided that the fine would begin immediately.

**Mr. Andrews made a motion to impose a fine of \$100/day until such time as the pool is drained and covered , is fenced in, or is otherwise in compliance with the BOH regulation. Mr. Barlow seconded the motion. The motion passed unanimously.**

**2) 9 Scraggy Neck Road, Ext.- Carolyn Neal- continued- Discuss and vote on possible revocation of horse license**

No audience members were in attendance in regards to this matter. Agent Coffin contacted the homeowner after the last meeting. The owner was indecisive about whether she was going to give up the horses, board them elsewhere, and has now had a container for manure placed on the property. Ms. Furtek did inspect the property before this hearing. The container is there; Ms. Coffin confirmed with Cavossa that they have done this type of thing before. Ms Furtek felt, however, that there was still the same condition in the pasture, with a significant amount of manure covered with sand. Ms. Neal called the office on Monday Aug 8 and said the horses would be gone, but they are still there. Ms. Coffin felt it was a losing battle. She also felt that fining would not be productive because the owner has no money. Mr. Andrews stated that it was discussed at the last meeting that the Board wanted her notified by certified mail that this meeting was a hearing to revoke her permit, and that she needed to be here. She was given every opportunity to comply. Mr. Andrews felt he did not hear confidence from Ms. Coffin that a plan was in place to address the issues. He felt the Board no longer had a choice.

**Mr. Andrews moved to revoke her license as of August 10 and order her to remove the horses from the property by September 14. Mr. Barlow seconded the motion. The motion passed unanimously.**

**10) Discussion—Town Counsel’s draft policy on public comment**

Mr. Andrews stated that he believed this was on a “public topic” agenda item. The BOH **never** has an open public comment topic on the agenda. Audience comment is always allowed on the agenda items. He feels that because this Board will not foreseeably enter into an open public comment on the agenda, he does not see why the Board would need to enter into a policy to deal with it. Mr. Barlow feels that the Board follows the open meeting law, and that the Board, of course, would follow the policy of Town Counsel should we ever have an open public comment item on the agenda. Audience member Jim Mulvey stated that Mr. Andrews touched on public comment in two categories: public comment on non-agenda items and the other on agenda items. Ms. Peterson pointed out that the Board does not have anything that is non-agenda, and Town Counsel will no longer allow the Board to have a generic “other business” on the agenda, so this is kind of a moot point. Ms. Coffin felt that the “public topic” may allow the Board to discuss items that would have formerly been brought up under “other business”. Ms. Peterson felt that she needed to speak with Town Counsel more about the policy, bringing up her thoughts and the thoughts of the Agent and other Board members, but at least the discussion has now been started.

**11) Approval of Minutes dated July 13, 2011**

**Ms. Peterson moved to accept the Minutes of July 13, 2011 as written.**

**Mr. Barlow seconded the motion. The motion to accept the July 13 Minutes was unanimously accepted.**



**Mr. Andrews moved to adjourn the Meeting. Ms. Peterson seconded the motion.  
Motion passed unanimously.**

**The meeting was adjourned at 8:40 pm**

Respectfully submitted

Melissa A. Chase  
Secretary

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

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

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

Don Uitti\_\_\_\_\_

Carol Tinkham\_\_\_\_\_

cc Board of Selectmen/Town Clerk