



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

**MINUTES
OCTOBER 26, 2011**

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

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

Meeting was called to order at 7 pm.

Ms. Peterson recognized that Mr. Sabatt had not yet arrived for the Pocasset Mobile Home Park agenda item, and that all involved parties were not yet present for 62 Old Plymouth Road. She stated that the Board would wait a few minutes for them to arrive. In the interim, Ms. Coffin forwarded a letter to the Board members that she had just received from DEP in regards to the Wind Turbine Regulations. Ms. Peterson pointed out that no one was to comment on what they were given; it was not an item for discussion as it was not posted on the agenda, but it was a forwarding of information to the Board.

The meeting was recessed for 5 minutes to allow persons on the Agenda to arrive.

The meeting reconvened at 7:05 pm.

(Agenda item 2 taken out of order)

2) 62 Old Plymouth Road: Update on status and possible discuss and vote on housing code compliance

In attendance for this item was Rachelle Willard, attorney representing owner Deutsch Bank.

Ms. Peterson read a letter addressed to Ms. Furtek, dated October 21, 2011:

“Dear Carrie: This letter is to certify that all of the items in the Board of Health’s letter dated September 9, 2011 have been addressed. However, we have been dealing with the same baseline issues for over 1 year now. We first notified the Board of Health last fall requesting an inspection because water seeped into the cellar every time it rained....we are still dealing with the same issue about which we notified you. I have enclosed photos taken early yesterday morning...on October 20 of our wet floor and partially flooded cellar due to rainfall...” Ms. Peterson noted that Ms. Spencer was not at the meeting. Ms. Furtek stated that she had gone out with the contractor, Matt Connolly. He felt that the dampness after the rainstorm was probably percolating up from the ground, and that there wasn’t really anything that needed to be done. He said that if there were other issues, he was willing to address them. Ms. Furtek pointed out that the pictures (forwarded by Ms. Spencer) were not date/time stamped. She was told by the tenants that they were going to

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bring the camera to show the date stamp. Ms. Peterson said that the Board would not accept a camera as proof of a date/time stamp. Pictures have to be printed with a date stamp. Ms. Peterson asked the Board members if they had any questions for Ms. Furtek or Ms. Willard. Mr. Andrews asked Ms. Furtek if effort had been put forward to resolve the water issue. Ms. Furtek said they had done "above and beyond." They have re-graded away from the foundation; they have put downspouts and 10 foot downspout extensions; a sump pump was installed; there are 2 dehumidifiers. Ms. Furtek has asked Ms. Spencer to contact Ms. Willard directly if there are more issues so that the Mr. Connolly can be authorized right away to look at the problems. She felt there was not much more that the BOH could do other than say "yes, there is dampness." Ms. Peterson asked if, in the professional opinions of both the Health Agent and Health Inspector, all the items that have been previously put forth have been addressed and taken care of to the best of the contractor's ability at this time. Ms. Coffin stated that she would have liked to have seen the video Ms. Spencer said she had. Ms. Peterson stated that any videos or pictures had to be date/time stamped and submitted to the office; it would not have been accepted for them to show up with a camera to the meeting without prior stamping them in ahead of time for the Board to have sufficient time to review them. Ms. Willard stated that the Board had expressed numerous times to the tenants that they contact Ms. Willard or her office directly regarding water coming in; she has yet to receive any contact at all from the tenants about water coming in. The only notification she has gotten is from Ms. Furtek. Ms. Willard felt that the tenants are not in contact with her office. Ms. Peterson stated that is not how things are supposed to work. The BOH office is not to be a go-between for the tenants, that these tenants are supposed to follow all the procedures that any other tenant would have to do because this office can only deal with corrections as they are put in. Ms. Peterson said that they cannot call in to Ms. Furtek and say "something has happened, can you take care of it." Mr. Barlow stated that he and Mr. Uitti had done a site visit, and he felt that the Bank has made a good faith effort to remedy the problems. It is a stone foundation rather than a poured foundation, is very old, and will probably be problematic forever. One area may get fixed, and a leak will spring up somewhere else. Mr. Barlow felt that, for now, the current issues have been addressed. He said that the tenant had sent in a letter stating that the issues had been addressed, but the cellar still leaks. He is not surprised by this, but he thinks that the issues have been addressed to the best of the Bank's ability, and in good faith.

Mr. Andrews moved that the Board consider the complaints on 62 Old Plymouth Road addressed and cleared, and that all letters of complaint up to this point have been satisfied by the landlord. Mr. Uitti seconded the motion. The motion carried unanimously.

1) Pocasset Mobile Home Park: Update on the 10/20/11 conference call regarding septic status (inspections, monitoring plan). Attendance of Attorney Chuck requested. Possible discuss and vote on further Board action

In attendance for this item was Attorney Chuck Sabatt.

Ms. Peterson stated that it was her understanding that Attorney Sabatt had requested that the Board enter into executive session. She asked for him to explain why he felt this was necessary. Attorney Sabatt stated that he had discussed it with Town Counsel, and he thought that Town Counsel had not yet submitted a memo to the Board about that. It was pointed out that a memo had, in fact, been received, and it basically stated that the Board may or may not go into executive session. Attorney Sabatt stated that he felt that, because there was currently litigation against Mr. Austin, he was concerned that any public discussions might become fodder in that litigation, and felt that executive session might be more appropriate venue for discussion of this case. Mr. Barlow stated that they needed a roll-call vote to go into executive session. Ms. Peterson stated that she was still unclear as to why executive session was necessary. Attorney Sabatt felt that

discussing the septic pumping plan and the conference call would not be problematic, and would not require executive session. Mr. Mulvey (audience member) suggested that if executive session was called, the Board and Attorney may want to reconvene to the upstairs room rather than try to discharge the audience. He also asked how an open discussion of the matter would interfere with negotiation. Ms Peterson said that would not be discussed here, and that is why the Board would move to executive session. Mr. Barlow said that if the Board was going into executive session it would be discussed, but executive session is not being called, so discussion will not happen. An unnamed audience member asked for clarification as to if a reason had to be given for going into executive session. Ms. Peterson said yes, if we were going into executive session. She stated that this was a discussion of the reasons the Board might enter into executive session. It was not the Board that asked to go into executive session; she stated that the Board does understand Attorney Sabatt position that it is a legality issue and there are lawsuits pending. If the Board is discussing any part of that, Attorney Sabatt is the one who will have to defend the Park's position. Attorney Sabatt stated that there was an inspection on site on October 18 with the Health Agent, some other Board members and Mr. Gilpin. What he took away from the inspection is that there is a need to be more aggressive about the inspections of the system and need to be more aggressive with any pumping that is necessary. After the inspection, there was a conference call (October 20, 2011) with Attorney Sabatt; Ms. Coffin; Ms. Furtek; Mr. Barlow; an engineer from BSC engineering; Assistant Attorney General Tracy Triplett; and an engineer from DEP. During this call, it was agreed that there would be a weekly inspection conducted by Mr. Gilpin with Ms. Coffin present, and that there would be a more formal inspection on November 16, 2011 at which members of the Board can be present. He stated that there was an inspection done by Mr. Gilpin, and Ms. Coffin sent him a memo regarding this inspection. He felt that it was positive, but he would let Ms. Coffin speak in regards to that memo rather than speaking for her. Attorney Sabatt now has Mr. Gilpin going out every week, and he has been advised to pump as needed without prior approval to keep the system clear. There is another conference call scheduled for Friday, November 4 with the same group to discuss where the Park is as it heads into the winter months. There is an issue about replacing some pipes, which he has been advised by his engineer that this should be done. He has been at an impasse with DEP; they want more to be done than to just replace pipes, but the engineer feels that it would be wasteful, expensive and not be able to be reused. Ms. Peterson asked the name of the engineer; Attorney Sabatt stated that it was Brian Yergatian from BSC Engineering. Attorney Sabatt didn't know if it would be helpful to replace the conduits before going into the winter. He is willing to get the funding for it and having it done, but is hoping to discuss it further with DEP during the Nov 4 conference call. He is prepared to be aggressive about the inspections and pumping as necessary. He related that he received a memo from the maintenance company saying that there were solids (possibly a blockage of wipes/paper towels) in the tank on 5th Ave. Mr. Gilpin had gone out and pumped, and Ms. Coffin should be receiving notification of that. Ms. Peterson commented that she had a proposal in hand that was a proposal from BSC engineering, and asked Attorney Sabatt if he had actually hired BSC. He confirmed. Mr. Andrews informed Ms. Peterson that the contract is further into her packet, and that the monthly reports show the status reports of what they are working on. Mr. Andrews stated that he wanted to get right to his concern. He stated that at the last meeting, Attorney Sabatt had spoken of a backup, and at the site visit the tank was full of solids and up and over the pipes. One half of the leaching field was not being utilized, and that temporary repair was supposed to handle half of the Park flow. His concern is that the inspections are not being accomplished, and reports are not being sent to the office to document that they are being done. He now has a low comfort level with how long that temporary repair is going to hold; he has no confidence in it without documentation that the inspections are being done. It was part of the licensing stipulations. Another stipulation of the license agreement was that the 24 hour maintenance number be posted for the residents, and he felt it was not posted. Ms. Coffin pointed out that it was posted on the mailboxes. Mr. Andrews said that the stipulations were put there for

a reason, that the intent was to make sure everyone was kept in the loop and knew what was going on. He stated, as he had at the last meeting, that the Board does not want these meetings to be a sounding board for the residents; he wants them to be kept informed and wants Attorney Sabatt to be proactive at keeping the site from becoming an issue again. Mr. Andrews said he was very concerned, especially after seeing the tanks in the condition they were in and seeing that the temporary fields were not being utilized, and he emphatically stated that he did not want to hear of it happening again. Attorney Sabatt responded to Mr. Andrews concerns. Attorney Sabatt asked Mr. Andrews to recall when he took over as receiver of the site. Attorney Sabatt defended his position by stating that he had been on the job for about 3 weeks; Mr. Gilpin was pumping almost every day and suggested the installation of the temporary trenches. Ms. Coffin was contacted immediately. He got DEP on the phone, had an engineer on site, and he feels he managed to cut through the red tape with DEP, as well as obtained the funding by securing a loan, and he is the one that got those trenches built. It is because of his efforts that that temporary system is even in place. He stated that in his monthly reports, he always says that he does not know how much longer the system will hold, that it is temporary and it is not the final fix. He did agree that this most recent inspection showed him that it is necessary to be more aggressive with inspections and pumping, and that is exactly the response that he is engaged in. He feels that he has been open to doing whatever is asked to be done, and has not resisted. Mr. Andrews did agree with Attorney Sabatt that he had been proactive with getting the trenches in there. Attorney Sabatt did express concern over the issues that may arise with the winter months coming. He feels that Ms. Coffin is informed of issues as soon as they arise at the Park. Mr. Barlow stated that right after the conference call, Mr. Gilpin left a message at his house stating that he had been comfortable with the repair and hadn't been monitoring it as closely as he should have been. Mr. Barlow stated that he was not trying to alleviate Attorney Sabatt of anything, but was just pointing out that Mr. Gilpin was not monitoring it as closely as he should have been. Mr. Gilpin assured Mr. Barlow that, now that he realizes the state of the system, he will remain on top of it. Mr. Barlow feels that Mr. Gilpin is a credible man, and he is comfortable with Mr. Gilpin's word that he will remain on top of it. Attorney Sabatt stated that he is here to stay on top of things that are happening "on his watch". He does rely on the advice of other professionals for what to do and how to do it, but he has never resisted any recommendations. Attorney Sabatt says he has "tremendous faith" in Mr. Gilpin; he feels Gilpin has been terrific so far. But he is also aware that it is ultimately his responsibility. He hopes to err on the side of "overkill", especially after this last inspection, and he intends to keep Mr. Gilpin and his son (who is also part of the business and is licensed and qualified to step in when the elder Gilpin goes to Florida) on top of it throughout the winter months. Attorney Sabatt gave an assurance that he will make sure that the system is inspected as regularly as the Board wants it inspected. He reiterated that he has no problem in engaging in overkill; he has the funding. He praised the Park tenants who are diligently paying their rent; because of them he has the funding to address these things. He has a source of funding if needed to make necessary repairs, and will move forward to do that as needed. Ms. Peterson stated that at the last meeting, Attorney Sabatt had expressed that his recommendation to the Court was being moved up to January 2012. She asked what reassurance he could give the Board that he is moving forward in a timely manner to find resolution to the problems at the Park. Attorney Sabatt stated that BSC engineering is in the process of obtaining bids and pricing for the project. He has signed a contract with BSC, and it has been approved by the Court. BSC estimates that they should have all the information by the end of November. He stated that he is still working on getting an analyst to help with the other side of the coin (finances). He is "doing his homework" now as to what the market would bear in terms of rental pricing, but needs that accounting/appraisal help, which he is in the process of obtaining. He has filed a motion with the Court on September 27, 2011 and had discussed with the judge about needing additional time, to which she agreed, as did the Attorney General's office. He will be hard pressed to look for further extensions beyond January 15, 2012, so he will be under the gun to get that report in by January

15. Now that the engineers are underway, the pricing and bids should be in, and then it will just be a matter of the cost analysis. With no further questions, Attorney Sabatt said he would see the Board members at the site on November 16.

The Board thanked Attorney Sabatt for his update, and asked Ms. Coffin to send a reminder notice of the site visit to the Board members on November 14.

3)Approval of Minutes dated October 12, 2011

Mr. Andrews moved to accept the Minutes. Ms. Tinkham seconded the motion. The motion passed unanimously.

Mr. Barlow made a motion to adjourn. Mr. Andrews seconded the motion. The meeting was unanimously adjourned at 7:30 pm.

Respectfully submitted,

Melissa A. Chase
Secretary

Kathleen Peterson_____

Stanley Andrews_____

Galon Barlow_____

Don Uitti_____

Carol Tinkham_____

cc Board of Selectmen/Town Clerk