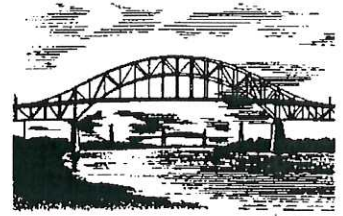


Terri A. Guarino  
Health Agent

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BOARD OF HEALTH**

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**MINUTES**  
February 28, 2018

Members in attendance: Kathleen Peterson, Chairperson; Stanley Andrews, Vice Chairperson; Galon Barlow Jr.; Don Uitti; and Kelly Mastria

Support Staff in attendance: Terri Guarino, Health Agent; and Meghan McLean, Secretary

**Meeting was called to order at 7:00 pm**

*Ms. Peterson asked the audience if anyone would be recording this meeting. Michael Rausch, a reporter for the Bourne Enterprise; Philip Austin, owner of the Pocasset Mobile Home Park; and Ethan Genter, a reporter for the Cape Cod Times were recording audio.*

- 1. 54 Clarissa Joseph Road—Mark Flaherty, P.E. on behalf of Adam Murray—Requesting 21 foot variance from Board of Health Well Regulations for setback from existing well to property line. Private well to service new single-family dwelling.** *Mr. Andrews recused himself from participation and deliberation. Mark Flaherty, professional engineer, was present for this hearing. Mr. Flaherty stated that this property is currently a vacant lot. The septic plan was approved for a new house and a percolation test was conducted in 2004. A private well was also installed at that time. That well is still currently in working condition, and owner Adam Murray plans to build a home on the property. Mr. Murray would like to utilize the existing well and had a licensed well driller inspect it and take some water samples. The problem is that the well is located 4 feet away from the property line which conflicts with the new setback regulation that requires 25 feet. The neighboring lot that abuts the rear property line is roughly 100 acres of vacant land. Mr. Flaherty does not think that there are any uses that would infringe upon keeping the well in place. He displayed an engineered plan showing the location of the property on Clarissa Joseph Road and described a powerline easement close to the property and located the existing well off of the rear property line. He asked that the Board grant the necessary variance to keep the well in place. Ms. Guarino stated that the rear of the property, as it seems, will never undergo any sort of construction whatsoever. The intent of that setback would be to protect other wells, and she believes that there will not be any private wells on that property. She does not see a problem with granting the variance, the well was approved in 2004 and the condition of the well is good. New water quality reports must be submitted to the Health office and then a new water supply certificate can be issued. Mr. Barlow made a motion to approve the variance, noting that it is a very site-specific instance, as not to confuse it with other well variances that are granted in other areas of town. Ms. Peterson asked if there were any audience members that had comments, of which there were none. Mr. Barlow continued by stating that he completed a site visit at the property and determined that the variance should be approved. Ms. Mastria seconded the motion. All were in favor. Mr. Andrews returned to the meeting at this time.*
- 2. Title 5 Inspection & D-Box Replacement—22 Chamber Rock Road—Discussion and possible vote regarding violations of 310 CMR 15.024 and Board of Health Title Transfer Inspection Regulations.**



- a) **Thomas Roux, Title 5 Inspector, submitted report dated September 25, 2017 with false, incomplete, and/or misleading information regarding condition of distribution box. Local Regulations not being adhered to. Second offense.**
- b) **Chris Cummings, Cedarville Excavation, replaced distribution box without required permits for septic installer and repair permit. Failure to obtain two permits, pay required fees, and request inspections.**
- Thomas Roux and Anthony Cummings, son of Chris Cummings, were present for this hearing. Ms. Guarino explained that in the past, any septic work completed without a permit is brought before the Board of Health which is consistent with Title V. The installation completed at 22 Chamber Rock Road was a distribution box, which is just a structural component and does not require engineering but does require approval and inspection. She had previously spoken to the property owner about a renovation, which triggered a Title V inspection to be conducted. The inspection should have been witnessed by herself and was required in order for her to sign off on the building permit for the property. Ms. Peterson asked what the first offense was. Ms. Guarino stated that at the last Board of Health meeting, 594 Circuit Avenue was discussed and the confusion of whether the system passed or failed inspection was addressed. Certainly any work being completed without a permit should be brought to Board's attention. She explained that it was not noted on the inspection report for 22 Chamber Rock Road that this repair was just a structural component. The permit fee for a distribution box is \$100.00 and a Septic Installer permit, which is an annual permit, is also \$100.00. Mr. Cummings had not renewed his installer's license at that time either. Ms. Peterson explained that due to the mistake made at 594 Circuit Ave, it cost the Health department a lot of time and attention to correct. She asked the Board for any questions, to which there were none. Mr. Roux stated that he would start with 22 Chamber Rock Road. He explained that he has completed hundreds of inspections on the eastern half of the state. He begins each inspection by going to the Town Hall to do some research on the property and look at the septic design plan. This property had an as built on a notecard that was almost illegible, as though completed by a child. When he arrived at the property, the as built location and measurements were all wrong. He and Anthony from Cedarville Excavation had to dig up components by locating the septic tank and following the pipes to where they lead. This system is composed of a 1,000 gallon tank, a distribution box, and (2) 1,000 gallon leaching pits. Mr. Roux found one pit that was remarkably clean with no evidence of failure. The issue was the distribution box. When he removed the box cover, he used a probe to find components by touching it around the water line to find wastewater-produced gasses. These gases have the ability to deteriorate the septic tank. The bottom of box was good, but probe went right through the box on each 2 sides which means it will likely collapse. Mr. Roux stated, "Replacing a distribution box is almost idiot proof. When you take the old one out, the pipes will line up perfectly with the new one." He went back after the installation to review, and said that everything that was done was a magnitude better than it was before. The new distribution box was composed of much thicker concrete and a riser was installed as well so that the septic cover is closer to the surface making it easily found for future services. The riser will also dilute or dissipate any gasses causing the distribution box to last much longer. Mr. Roux continued that he does the Title V report on the same day that the inspection is completed so that the notes are accurate. He admitted that he forgot to update the report stating that there was a new distribution box. Anthony Cummings, son of Chris Cummings, stated that typically Mr. Roux will contact him when he needs assistance excavating or locating a system for an inspection. He stated that at this property, he knows the homeowners personally. They are in the middle of updating the house to accommodate a handicapped family member who will be residing there, and working with engineers to determine the best way to upgrade their septic system to accommodate an additional bedroom. At the time of the inspection, he was under the impression that a new distribution box installation was part of an inspection in order to be considered a full pass instead of a conditional pass. Ms. Peterson asked why he thought he didn't need a permit to complete this work. Mr. Cummings said each town is different and some do not require permits to be pulled and only ask for pictures to ensure compliance. He works primarily in Plymouth, and used to work for local installer Greg Jones. He explained that he is unsure of if or when he will have customers in Bourne so he does not renew his permit until there is a set of plans prepared for a property. He explained that he was trying to save this customer some money, and trying to help a handicapped family member move in quickly. He was not trying to avoid pulling a permit. Mr. Roux stated that he spoke to Zack Seabury for protocol on what the correct process is for Title V inspections. Mr. Roux stated that Mr. Seabury said typically a septic tank is okay because it's a large component and the gasses can dissipate within it. For a distribution box that



needs to be repaired, hang on to the Title V report instead of handing it in. Pull a septic repair permit, replace the box, and on the report in the distribution box section include the permit number and information regarding the replacement. Ms. Guarino clarified that it depends on the situation. The Board of Health regulation states that if 1 or more system components need to be replaced as described in the Conditional Pass section, the Bourne Health Agent must be notified by the inspector within 24 hours. It also states that for a construction permit an inspection will be required. She stated that if Mr. Roux completes a voluntary assessment and the box needs to be replaced, just alert the office that you will submit a passing report after the box is replaced. The important thing is that if there is a structural component that needs repair, a permit is required and the Health office must be notified. If a voluntary assessment is completed and no report is submitted, a component that needs updating will not get reported to the office and the system will be out of compliance. Mr. Roux started explaining 594 Circuit Ave saying that he did not know about the requirement of the inspection needing to be witnessed if there was a conditional pass. He stated that this property provided the worst Title V inspection that he has ever done. It was a disaster every step of the way. This property is directly on the ocean in Pocasset. There was no as built on file in the Health office, just a design plan that showed a septic tank, a pump chamber, a distribution box, and two leaching chambers. He located the pump chamber with his probe, but could not find anything else. Mr. Cummings came to dig up the system to locate the rest of the components. After it was dug up, he found the tank, the pumps in the chamber were working. A short distance in front of chamber he found concrete. After digging this discovery up, he found a weird chamber that had octagon-shaped cover, which he had never seen before. Ms. Guarino explained that it is a flow diffuser commonly used for coastal systems. Mr. Roux displayed an instruction sheet for a flow diffuser and explained that the center of it was full of black water. The water then flows down pipes that are on the side and the water soaks into ground. In the far corner of chamber there was a cover and that was the observation. He explained that he was not familiar with this at all and had no idea what it was. It appeared to him to be in hydraulic failure, which is why he failed the report. He spoke with Zac Basinski who explained the chamber details to him. Mr. Roux went with Mr. Cummings on a Saturday to find the distribution box that Mr. Basinski had found. They found the box and it was in good shape. He opened the rest of the chamber which had no evidence of failure, so he determined that it was a passing system. The alarm for the pump didn't work at first but the electricity was shut off at the house. Someone came to turn it on so that he could check the alarms which were also working. Two weeks later, Mr. Roux received an email from the property owner stating that the Town did not accept pass report. He was confused by this email considering that he had spoken with Mr. Basinski who said he would talk to Ms. Guarino to resolve this. Mr. Roux then talked to Ms. Guarino and the report ended up being accepted. He gave the property owner a full refund for the confusion. Ms. Guarino said they had discussed the situation and she wants to make sure there is consistency throughout all of the Title V inspections conducted in town. This does not happen very often, but this is the second occurrence this year. She explained that although there are Title V regulations, the Board of Health also has local regulations which were recently updated. Ms. Peterson explained that the Health office is consistent with advertising and holding public meetings regarding any updated regulations. Ms. Guarino stated that the regulation was last updated on May 26, 2004. If there are any questions regarding inspections, inspectors are encouraged to call the office. Mr. Andrews stated that if Mr. Cummings normally doesn't work in Bourne, and they have installer permits in other towns, he should have checked to see what Bourne requires prior to completing any work. Ms. Peterson asked for any Board or audience comments, there were none at this time. Mr. Roux stated that last week he completed another inspection, and he tried calling the Health office several times and could not reach anyone. He explained that he almost did not complete the job but received a call back from Mr. Seabury. Mr. Seabury was extremely helpful and came out to witness the inspection. He stated that Mr. Seabury informed him to write who witnessed the inspection directly on the report so that there was never any question in the future. Mr. Roux said he would like a witness for every inspection complete in Bourne if possible to avoid having this happen again. Ms. Peterson stated that he is here for making 2 significant errors in a very short period of time, not because it wasn't witnessed. She asked for any further comments, of which there were none. Ms. Peterson made a motion to take no action at this time. She explained that both Mr. Roux and Mr. Cummings must adhere to the rules of the town if they are to work in it. She believes they both understand the requirements and she does not think fining them is appropriate. Mr. Barlow seconded the motion. Mr. Andrews asked if they have paid the fees for the installer permit and septic application. Mr. Cummings answered that he has not yet



done so. Ms. Peterson included in the motion that she would like them to immediately call the office, obtain the appropriate applications and submit them. All were in favor, and the vote was unanimous. Ms. Peterson thanked them and appreciated both for coming in.

**3. Pocasset Mobile Home Park—Board to review and consider application for license to operate manufactured housing community pursuant to M.G.L. c. 140, §32.**

**a) Attorney Charles Sabatt—Discuss termination of receivership and payment of outstanding fines for operating without a license.**

**b) Philip Austin—Discuss new application for license to operate.**

Attorney Robert Kraus and owner Phil Austin were present for this hearing. Mr. Austin stated this has been a horrible situation for himself as well as sister. The park was inherited to them and they have had control for only 2 weeks. Mr. Austin stated that he is doing his best to clean it up, but currently there are legal issues with Mr. Pritchard and Atty. Sabatt. He plans to clean the park up and sell it, and operate as if they own it until they can sell it. Mr. Austin invited the Board and staff members to visit the park. Atty. Kraus stated that after 6 years of receivership, through a court order dated February 9, 2018 Mr. Austin can now operate it, and the legal land owners is the Charles W. Austin Trust. The Austin's never had anything to do with park until now, and are picking up the pieces of their father's inheritance. He stated that Ms. Guarino was provided with an application and rules and regulations for the park. According to statute, Mr. Austin is responsible to provide these regulations as well as a listing of tenants within the park on a monthly basis. Two rules and regulations have been submitted. One copy is Atty. Sabatt's draft to the Atty. General from January 2018 in response to a 2014 requests. The Atty. General does not adopt or approve rules, just determines which rules they do not agree with. Atty. Sabatt amended the rules, sent it to the Atty. General, and upon approval sent it to the Health office. Until February 9<sup>th</sup>, he and Mr. Austin had no position in connection to the park due to a court ordered, mandated receivership. He could not speak for the park and obtained no information of the park from the receiver. In connection with the new permit application, the rules and regulations that were proposed were sent to the Health office. They have been posted within the park, and provided to the residents, HUD, and the Atty. General. Atty. Kraus is anticipating the rules and regulations to be effective by July 2018. They are working closely with the Assistant Atty. General to get these rules in place as soon as possible. Mr. Austin has been working nonstop for 2 weeks to clean and prepare to sell the park. He has alerted the residents per state law that they plan to sell the property, and would like a license to operate in the meantime. Mr. Kraus stated that typically there isn't a new license issued unless there is a buyer of the property. He explained that he is familiar with mobile park licenses and recalled that there should be a third party buyer for a new license to be issued. That is not what this is, the Charles W. Austin trust has owned this property for years, and Mr. Austin is now the manager and operator of park. A lot of good work is being done and he believes that the Austin's will run the park with pride. He suggested that the Board visit the community to see what changes have been made within the last 2 weeks. They are not responsible for what happened on the watch of the temporary receiver. Mr. Austin had a public meeting with the residents of the park to introduce himself as the new operator and to get to know the residents. Atty. Kraus stated that also within the communications regarding the park, he saw a mention of heat tape and other matters. The mandate of the receiver was the building of the field, the roads, and the treatment plant connections. Now, the park is being operated in the condition that it was received, and Mr. Austin is trying to work out the last few details with the receiver. Atty. Kraus felt that it would be unfair to be penalized for unresolved issues caused by the receiver, and wished to receive a permit to operate the park. Ms. Peterson explained that the Board has done nothing but work with the owners for 15 years to try and help the park and has never been against anything that happens to benefit this property. The Board of Health is the only Board in town that has had anything to do with this property and has always taken residents' needs at the forefront. Atty. Kraus stated that he did not mean to give the impression that he thought that. He continued to explain that Mr. Austin has not been involved with the park for over 40 years. He is a "townie" who has been around the area for a long time, and would like to do his best to represent the town in a positive way. He said that Mr. Austin is at the park every day repairing something and talking to the residents. Atty. Kraus started to explain that the park will be experiencing a rent increase in the coming months, but Ms. Peterson stopped him and stated that the Board of Health does not discuss or hear matters of financial planning or costs only the public's health and safety. The obligations with respect to the license are as follows, starting with the DEP mandate. As the Board knows, there is a new, certified water treatment facility and system. All utilities are fully functional, and under the regulations, there



is no evidence of a malfunctioning water system. The rules and regulations have been submitted, and they are cooperating with the Board of Health which he feels deems Mr. Austin deserving of a permit. Atty. Kraus stated that the agenda that was posted read that this was a "discussion" and not a hearing this evening. Ms. Peterson stated that all items are subject to deliberation and votes by the Board of Health, and that is written on the agenda. Mr. Andrews stated that the Board has dealt with many of the park's issues in past. A great improvement has been made with the treatment plant being completed. It has protected the public health and environment. Over the years, he has heard that there is poor water pressure, lines popping and freezing, water system is not deep enough, and irrigation line repairs. Those things are what suspects the water system. Atty. Kraus stated they just got the park back 20 days ago and would be happy to consult with an engineer to determine what state the water system is. Mr. Andrews explained that in the past there were a lot of conditions created in order for the park to continue to operate while corrections were being made. Once they were finished, the Board would reevaluate the conditions to determine if they would need to stay in place or if the park could operate fully without any conditions. This concern has continuously come up since the beginning of the park and he is very concerned about it. Those are things that he wants to put into a permit to ensure that they are being addressed. Mr. Andrews stated that he is very happy to see that the operators of the trust want to improve the site and asked Atty. Kraus what he thought a good timeframe would be to complete the work that needs to be done. Atty. Kraus stated that he would like a permit through the end of this year with conditional dates in which he is required to report back to the Board. He needs to do some research on what needs what within the park and time to figure out who they are as operators. Mr. Andrews stated that the conditional permit would not be short-term and asked how long they would need to evaluate water system. Atty. Kraus stated that 9 months would be sufficient and would be a fair timeframe for all involved. Ms. Peterson asked if there were any questions. Mr. Uitti said that he visited the park last week and he did notice a lot of improvement. Atty. Kraus said there has been some cleaning done as well as posting the rules and regulations and signs around the park. Ms. Peterson asked for any comments from the audience, of which there were none. Ms. Peterson asked Ms. Guarino if Atty. Sabatt submitted a written request to discuss the fines for operating without a license. Ms. Guarino stated that she had not yet received anything, and Ms. Peterson told Atty. Sabatt that there could be no discussion regarding the fines. Atty. Sabatt explained that the last meeting he attended, he was asked to submit an application for the park and was told to wait and see if he was in compliance, and that he was never instructed to file a written request. Mr. Andrews asked for the minutes from that meeting, which was dated January 10<sup>th</sup>. Ms. Peterson stated that she specifically recalled asking him to submit a written request so that they were able to discuss it at a meeting. She was also informed by Town Counsel that it could not be discussed at this time. Atty. Sabatt stated that Mr. Austin and Atty. Sabatt requested that the keys to various facilities at the park which he had for them, as well as instruction manuals and other things. He said that since he is not on the agenda this evening, he will leave at this time and submit a written request for the next scheduled meeting. Ms. Peterson stated that he is on agenda for termination of his receivership, but cannot discuss the associated fees. Atty. Sabatt stated the only thing that he had to discuss has already been presented. In the fall, it was anticipated that the receivership would end at beginning of October. At that time the on-site manager had moved on with his life in anticipation of the receivership ending at that time as well. Atty. Sabatt remained in office until February 9<sup>th</sup>. On December 13, 2017 he had filed his completion report with the Suffolk Superior Court. The report, which has also been filed with the Health office, was disputed by a creditor although the Court had already approved it. None the less, to accommodate the opposing party, a hearing was held January 30<sup>th</sup>. At that time the Court instructed the representative of the park to prepare an appropriate order to be signed by the Court reflecting certain items that the Court wanted. Ms. Peterson asked what typically happens once a receivership ends. Atty. Sabatt said a receiver would file a final accounting with the Court seeking approval of the distribution of any remaining funds, which he is doing right now. Once that is filed with the Court, and the remaining funds are distributed, that will be conclusion of receivership. Some assets within the park, which are units that will be disposed of, are all part of the final accounting. Mr. Andrews stated that it has been a long process. They have gone from having sewerage on top of the ground and pumping all the time to a new wastewater plant in the park while under his receivership and thanked him for all of his hard work. It was not an easy job he took on and he did a great job. Atty. Sabatt stated that he would like to end on a high note with the board and will try to get on the next agenda with his written request. Ms. Peterson explained that the decision not to discuss the fines came in late from with Counselor Troy. She couldn't meet with him today so Ms. Guarino met with him. Once the request is submitted, Counselor Troy should receive a copy of it for his review. The next meeting is tentatively going to be



scheduled on March 14, 2018. Ms. Peterson stated that since there was no further discussion regarding the current permit proposal, the Board has prepared a draft permit. It is and will be a new license to operate as there is no license to continue. This is a conditional license, but is a new license to the Charles Austin Trust. Mr. Austin stated that he wants to wait until Atty. Sabatt gets his license. The Board told him that Atty. Sabatt will not receive a license because he is not the receiver any longer. Mr. Austin stated that Atty. Sabatt is still collecting rent and he does not want to move forward with a new license. He said, "The Board needs to deal with Atty. Sabatt before they deal with him." Ms. Peterson informed him that there is no further business for the Board and Atty. Sabatt to finish regarding permits. Mr. Andrews clarified that past meeting minutes state that Atty. Sabatt's conditional license was issued to expire once the receivership was over. Ms. Peterson stated that the Board has always stipulated in the park's permits, and all other Health permits, that they are non-transferrable. Atty. Kraus stated that the fact that the permit is in this phase and non-transferrable is not their doing. Mr. Andrews explained that this is the Board's doing and this is something that has always gone on with all permits issued from the Board of Health. Mr. Austin said it is the same business that has always been owned by the trust, came into temporary receivership, and then got handed back to the owner. He fears a new license because he will be subject to the rules and regulation standards of today. This is an old park that cannot be changed such as sidewalks, street lights, etc. He doesn't want to get into a position where he has to spend millions of dollars that he does not have because of something he has no control over. Mr. Austin explained that nearly all of their inheritance is gone because of this process. Ms. Peterson stated that when the Board issues permits, a lot of times there are conditions included. For example in your case, *"The owner/ operator agrees to notify the Board of Health office of any utility or infrastructure repairs made, or any other emergency situation which may impact the public health or environment"* is a condition. This is a draft, if there is a discrepancy or a disagreement then they can be changed. Mr. Austin asked for the draft conditions and asked why he didn't receive a copy a week in advance as the Board requests him to do prior to hearings. Ms. Peterson explained that it was not available until this afternoon and nothing has to be written in stone this evening. Mr. Austin may take all the time he requires to review these proposed conditions. Atty. Kraus said that it should be easy to establish that the park will not have any new statutory or land-use mandates in place. Ms. Peterson stated that these conditions can be reviewed at this time starting with the first one. Ms. Guarino clarified that certain changes that they have mentioned would be impractical due to the age of the park. There are provisions in the Manufactured Housing Community Act because many communities are older, and there are provisions for pre 1976 homes and it may not force anyone to make changes that are impractical due to the design or physical construction of the dwelling. Mr. Austin explained that he does not want to upgrade junk trailers that are in the park currently, he wants to get new trailers and then sell them which he believes is the best way to upgrade the park. Mr. Barlow explained that it is not a new permit for a new park, it's a new permit for an old park. Ms. Peterson asked Mr. Austin if he agreed to review and potentially change the draft that was written. He agreed and Atty. Kraus stated that they may ask to return before the Board after they have had the chance to review this document thoroughly. Ms. Peterson read, "At the duly posted public meeting on February 28, 2018, the Bourne Board of Health (hereinafter "Board") discussed the annual manufactured housing community license for the Pocasset Mobile Home Park pursuant to Chapter 140, §32B of the Massachusetts General Laws. According to the provisions of M.G.L. c. 140, §32H, the Board voted to grant Phil Austin, Trustee of the Charles W. Austin Trust, a conditional license to operate the Pocasset Mobile Home Park located at 141 Barlows Landing Road. This manufactured housing community license will expire on \_\_\_\_\_ unless sooner suspended or revoked, and is subject to the following conditions.

*Number 1: Any objections to the amended Park Rules and Regulations documented by the Attorney General's Office and/or Department of Housing and Community Development will be corrected by the license holder. All corresponding documentation will be filed with the Board of Health as soon as possible.*" Atty. Kraus stated that the revised rules and regulations that were sent by Atty. Sabatt are posted because they are obligated to be. There is now a new proposed copy which has also been posted. The residents are required to receive them within a 90 day window, which has been done. Ms. Peterson explained that what the condition says is that if there were objections by the Atty. General's office or HUDD, that the owner/operator of the park would inform the Board and make the necessary corrections. Ms. Guarino has reviewed the rules and regulations that have been submitted and is happy with them. Atty. Kraus and Mr. Austin agreed that this condition was acceptable. Ms. Peterson read condition number 2.



*"Number 2: Consistent with the Park's rules and regulations, there will be a manager (operator) for the Pocasset Mobile Home Park available 24 hours per day, seven days per week. The Board of Health shall be notified of any changes whether temporary (> 1 day leave) or permanent, and provide a back-up of this contact if necessary."*

Atty. Sabatt explained that as of right now there is compliance with this condition. He stated that Mr. Austin can be reached at any time at telephone number 508-563-3666 and that he is right down the road from the park. Ms. Guarino stated that in the past, Atty. Sabatt had mentioned that holidays and long weekends make it difficult to be available, but as long as someone is available to respond then that is acceptable. Atty. Kraus and Mr. Austin agreed that this condition was acceptable. Ms. Peterson read condition number 3.

*"Number 3: The owner/ operator will provide to the Board of Health an update on how and when they intend to upgrade the water service and utilities by \_\_\_\_\_ (date)."* Atty. Kraus said first there needs to be an established fact based on engineering that proves that an upgrade is necessary. He is asking for the owner/operator to undertake an investigation by a professional engineer and report back to the Board by a certain date. Atty. Kraus said he would like the condition reworded to say, *"The owner/operator will provide to the Board of Health a professional evaluation of the water system and report back to the Board by September 1, 2018."* Mr. Austin agreed that this condition was acceptable. Ms. Peterson read condition number 4.

*"Number 4: It is the responsibility of the Charles W. Austin Trust to install and maintain heat tape or equivalent weathertight insulation for the existing water utilities up to the point of connection to each manufactured home [940 CMR 10.05(4)(d)]. This should be done at annually or as often as necessary to ensure the utilities are in good repair, operating condition, and have adequate winter weather protection."* Mr. Austin asked if this condition pertained to water being supplied to the unit or water coming out of the unit. The Board answered that this only pertained to water going in. Mr. Austin said that the rules and regulations throughout most of the Commonwealth indicate that the tenant is required to comply with this, not the owner/operator. Atty. Kraus agreed with Mr. Austin stating that the heat tape is not the park's responsibility. The tenants pay for their own utilities. Mr. Barlow explained that where the pipes come out of the ground and before it hooks onto a trailer or unit, insulation or heat tape is required. Atty. Kraus asked to continue this condition until the next meeting so that he and Mr. Austin may discuss this in more detail. No changes were made at this time, and this condition was continued until the next meeting. Ms. Peterson read condition number 5.

*"Number 5: The owner/ operator agrees to notify the Board of Health office of any utility or infrastructure repairs made, or any other emergency situation which may impact the public health or environment."* Atty. Kraus would like to change the word 'utility' to 'material'. He believes that if a piece of pipe needs to be changed, Ms. Guarino does not want to hear about it. He said that Mr. Austin does not want to cause any aggravation and will report any public health repair to the Health office. Mr. Andrews explained that as we read through condition number 5, it talks about utility of infrastructure. We're not talking about holes in the ground were talking about emergency repairs on utilities for example a water main break. Atty. Kraus stated that those are materials, which is why he wants the word to be changed. The Board agreed that the word could be changed, and the new condition read, *"The owner/ operator agrees to notify the Board of Health office of any material utility or infrastructure repairs made, or any other emergency situation which may impact the public health or environment."* Ms. Peterson read condition number 6.

*"Number 6: No new trailers/ manufactured homes will be allowed on site, nor will the occupancy of any vacant trailers/ homes owned by the Park be allowed unless approved by the Board of Health."* Atty. Kraus stated that there are approximately 9 vacant homes on the property, 20 if Mr. Pritchard's units are included. He wants to get the vacant, ugly trailers out of the park. The units that are owned by the Pocasset Mobile Home Park LLC cannot be touched because the Charles Austin trust does not own them. Currently, they are working with Atty. Sabatt to get those units out of the park because they are not good for the community and the Austin's do not want them there. Mr. Andrews clarified that if an old trailer is removed and a new one is put in, the Board needs to know about it. Mr. Austin and Atty. Kraus agreed that this condition was acceptable. Ms. Peterson read condition number 7. *"Number 7: All representatives of the Board of Health shall be allowed access to the Pocasset Mobile Home Park at any reasonable time for purposes of conducting any inspections related to the health, safety, and well-being of the Park residents and the environment."* Atty. Kraus asked to add a provision that no new additional mandate or requirement be imposed by way of infrastructure within the community other than is addressed within this document. Mr. Andrews stated that all that is addressed are the conditions of the Board of Health permit and nothing else. Mr. Barlow stated that it is not the Board's intent to blindside him.



“Number 8: This conditional license is nontransferable under any circumstances and will become null and void should there be any changes to the park management or ownership of the property. This includes any changes in ownership or the form of ownership where new parties are introduced.” Atty. Kraus stated that Mr. Austin is currently the property manager and there is no intention of change in management unless brought before the Board. He asked to add “unless approved by the board of health” at the end of the first sentence. The condition was changed to read, “*This conditional license is nontransferable under any circumstances and will become null and void should there be any changes to the park management or ownership of the property unless approved by the Board of Health. This includes any changes in ownership or the form of ownership where new parties are introduced.*” Ms. Peterson explained that this list of conditions is what encompasses his permit. There are no hidden rules and nothing additional will be added to it. Atty. Kraus reiterated that he would like to review condition number 4. He feels that the Board is basically asking him to travel back in time to a period in which they were not in control of the park and correct something. They will review number 4 and come to the next meeting to deliberate. Mr. Austin said that he will not agree to this condition whatsoever. Mr. Barlow suggested rewording this condition to read along the lines of “*ensure that the insulation/heat tape is complete.*” Atty. Kraus suggested that it read “*...our best efforts will be made to ensure the compliance of rules and regulations.*” Mr. Andrews explained that their best efforts for public health are not good enough and it must be more concrete than that. Mr. Barlow suggested, “*It is the responsibility of Charles W. Austin Trust to address the insulation and heat tape...*” He explained that if Mr. Austin addresses it in the leases, the tenants would be held responsible. Atty. Kraus wants the verb changed to ‘address’. Ms. Peterson did not agree with address, she would prefer it to say ‘require’. Ms. Mastria asked Atty. Kraus if he and Mr. Austin agreed with the condition written as follows, “*It is the responsibility of the Charles W. Austin Trust to require the installation and maintenance of heat tape or equivalent weathertight insulation for the existing water utilities up to the point of connection to each manufactured home [940 CMR 10.05(4)(d)].*” Atty. Kraus and Mr. Austin agreed with the change. Ms. Peterson would like to add something, although she also agreed with the new condition. On January 29, 2014 the Atty. General's office and Atty. Sabatt had a problem on the rules review. One problem the Atty. General's office had was 9B under utilities, pursuant to 940 CMR 10.05 (4) (d), *water utilities shall be installed to the point of connection of each manufactured home and maintained in good repair and in operating condition by the operator without charge to residents except if damage is caused by the resident.* This proposed rule is disallowed as written because it requires tenants to be primarily responsible for water utility maintenance, i.e. installing and maintaining heat tape. Atty. Kraus said that he is aware of this and the language ‘point of connection’ is often debated and discussed. He stated that there are no electric utility services within the homes. Mr. Andrews asked if there was a house meter within the park at all. Atty. Kraus stated that other than at the shed and the water treatment plant there are none. He asked if the park could receive a permit without condition number 4 and then later returning to the Board to add it once they have had time to review. Ms. Peterson stated that this is the first time the Board has seen it also because Counselor Troy did not get it to us until today, which is why she wanted to review them during tonight's meeting. Atty. Kraus stated he is aware that the next meeting will tentatively be held on March 14<sup>th</sup>, and he will be out of state at that time. Andrew Sheeley is no longer at the Atty. General's office. He would like to go over these conditions with Mr. Austin and would like to wait until the meeting after the 14<sup>th</sup> which is the 28<sup>th</sup>. Ms. Peterson stated that the Board cannot issue a permit until the hearing is over, however Mr. Austin is in compliance by taking the steps toward obtaining a permit. Ms. Guarino stated that her concern is that this is a reoccurring issue. This winter has been very mild and if there is a serious issue there, that is when water may be curtailed for the residents depending on where main is located. A lot of homes will have to have water temporarily suspended in order for that to be fixed. Mr. Austin said the only way that could happen is if the pipes freeze and the tenant does something they shouldn't do without telling him about it. He would also like to know the units that have a history of freezing up. Ms. Guarino suggested keeping number 4 as a condition for now, and for Atty. Kraus and Mr. Austin to get more detail in the future as to who's responsibility that is. Atty. Kraus said that if the Board agrees to continue with license to operate until that point, they understand the Board's concerns and will work on it and communicate to them and Counselor Troy. Ms. Peterson asked what date the 45-day deadline for a continuance would be. Ms. Guarino said that this was first provided on February 9<sup>th</sup>. Atty. Kraus stated that he will submit a written request for extension. Mr. Barlow clarified that everyone has agreed to all conditions as corrected with the exception of condition number 4. All acknowledged that this was true. Ms. Peterson stated that she thinks it is imperative that the permit does not continue for 30 days without being issued this evening. The only condition that seems problematic is number 4, and if we go back and



reread it she would like to take a vote this evening so that tomorrow a draft permit with tonight's changes could be created. Ms. Mastria reiterated the change that was proposed for condition number 4 which read, *"It is the responsibility of the Charles W. Austin Trust to require the installation and maintenance of heat tape or equivalent weathertight insulation for the existing water utilities up to the point of connection to each manufactured home. [940 CMR 10.05(4)(d)] This should be done annually or as often as necessary."* She also reiterated that there were changes made on condition numbers 3, 4, 5 and 8. Mr. Andrews stated that the first blank would be December 31, 2018. The second blank listed under condition number 3 would be September 1, 2018. Ms. Mastria reviewed all changes made with Atty. Kraus, and he appreciated Ms. Guarino and the Board's help. Mr. Barlow made a motion to approve the permit applied for by the Charles W. Austin Trust for the Pocasset Mobile Home Park reflecting the 8 conditions which were agreed to tonight between Atty. Kraus, Mr. Austin and the Board of Health. This permit allows operation of the park located at 141 Barlow's Landing Road until its expiration on December 31, 2018 unless sooner suspended or revoked. Ms. Peterson added that Ms. Guarino will make these changes and email a draft copy to Atty. Kraus and the Board. The Board will require a few hours tomorrow to issue the permit. Atty. Kraus asked for the draft to be sent to Mr. Austin as well. Due to open meeting laws, this item cannot be discussed once this meeting is adjourned, only proof read. All participants agreed that there would be no discussion. Ms. Peterson asked for any further comments, of which there were none. Mr. Uitti seconded, all were in favor and the vote was unanimous.

4. **Approve the Minutes from the meetings dated February 14, 2018. Mr. Barlow stated there should be changes on page 9 and page 13 from "unanimous" to "majority vote" because he had abstained. Ms. Peterson stated that she would like another chance to look them over due to the length. The minutes were continued to the next meeting. All were in favor, and the vote was unanimous.**
5. **Set tentative date for next meeting and adjourn. The next Board of Health meeting is tentatively scheduled to be held on March 14, 2018 at 7:00pm in the Lower Conference Room of the Town Hall.**

**Mr. Uitti made a motion to adjourn the meeting. Mr. Andrews seconded the motion. All were in favor, and the meeting adjourned at 9:15 pm.**

Taped & Typed by Meghan McLean, Secretary

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

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

Galon Barlow Jr. \_\_\_\_\_

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

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

cc Board of Selectmen/Town Clerk



