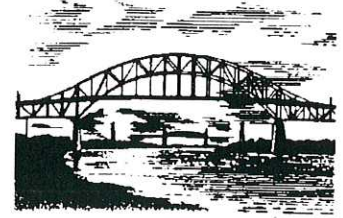




Terri A. Guarino
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TOWN OF BOURNE BOARD OF HEALTH

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MINUTES January 10, 2018

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

Support Staff in attendance: Terri Guarino, Health Agent; Kayla Davis, Health Inspector; 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, and Philip Austin, owner of the Pocasset Mobile Home Park, were recording audio. Ms. Peterson made a motion to move item number 2 on the agenda to item number 1, Mr. Andrews seconded, and all were in favor.

- 1. 26 Ben Abbey Road--Ship and Shore—Noncompliance with Tobacco Compliance Inspection dated December 13th and 28th, 2017 in violation of Section I of the Board of Health Tobacco Regulation.**
Discussion and possible vote. Business owner, Robert Long, is present for this hearing. Ms. Guarino stated that the original inspection was conducted on December 13th, 2017 by Ms. Davis. The humidor within the establishment did not have a lock on it, which is required per Bourne regulations. Ms. Davis ordered Mr. Long to correct the violation within 14 calendar days after the inspection, and upon re-inspection on December 28th found that it had not been corrected. Ms. Guarino visited the establishment this afternoon and verified that the violation had been corrected. The lock is required so that there may be no self-service to customers who may be underage. Mr. Long asked if it was to prevent theft. Ms. Peterson stated that its purpose is to keep underage customers from accessing the tobacco products within. To clarify any confusion about surrounding town's regulations requiring the same, the office provided a list of all other surrounding towns in the area that do. Ms. Peterson stated that he has complied with the regulation, and suggested that he does not wait this long to meet requirements in the future. Mr. Andrews asked if there were any other violations on property, to which Ms. Guarino replied that there are none. **Mr. Andrews made a motion to take no action at this time, Mr. Barlow seconded and all were in favor.**
- 2. 25 Bayview Avenue—Owner, Lorraine Starr—Hearing at request of owner to discuss order dated December 14, 2017 and outstanding violations of the State Sanitary Code.** **Discussion and possible vote.** Property owner, Lorraine Starr, was present for this hearing. Occupant, Jenna Goonan, was present for this hearing as well. Ms. Guarino explained that she provided attendees with the most recent update of the status of compliance at the property. The initial inspection was conducted on December 13th, 2017 by herself and Ms. Davis. On the 15th, Ms. Starr requested to be heard at tonight's meeting. There were re-inspections conducted since then, on December 18th and January 9th. There have been several conversations in between that time as well regarding the status of the violations, and the bulleted items on the updated letter are what remains to be corrected as of today. Five of the items from the original order were to be corrected within 24 hours, which had not been completed. Ms. Peterson stated that there are many outstanding problems that have not been resolved and asked why they are not completed. Ms. Starr stated that she has made attempts to correct every item, but is

having difficulty. The electrician, Joseph Smolinsky, came to the property yesterday. She stated that she didn't know that she had only 24 hours to correct these issues and that she in the process of doing so right now. Ms. Peterson explained that it was made clear on more than one occasion that she was to complete these repairs within 24 hours and that Ms. Starr was aware of this. Ms. Starr stated that Ms. Goonan has not been cooperative letting any contractors into the property for repairs, and asked Ms. Guarino and Ms. Davis to verify this. Ms. Guarino stated that it is often difficult collaborating with peoples schedules and that the occupants need notice. She explained that she made arrangements with the occupant who works a full time job, and was able to be let into the property at 4:00pm today. Ms. Starr stated that she had tried multiple times to contact the occupant and schedule a time for Mr. Smolinsky to enter the property. Ms. Peterson asked if the Mr. Smolinsky had fixed the light fixture that was needed in the interior front entry way, with a functioning light switch so that the egress is illuminated. Ms. Starr stated that there is a problem with the light the electrician was working on and that she and Ms. Guarino discussed this prior to the meeting. Ms. Guarino stated that as of yesterday there was an electrician there and all of the exterior lights had issues. The dwelling was constructed in 1900, and there was an addition wrapping around the porch. Both of the doors are considered entry doors to the dwelling, so there needs to be light fixtures with a functioning switch for each entry. Ms. Starr explained that Mr. Smolinsky told her that he had made an error causing the lights not to work. Ms. Peterson asked when Mr. Smolinsky was returning to complete the repairs, and Ms. Starr stated that he needs permission from the tenant to return. Ms. Peterson asked Ms. Starr if she gave Ms. Goonan ample notice that she will need to let Mr. Smolinsky into the property, to which Ms. Starr answered no. *At 7:16 pm Mr. Andrews made a motion to allow a 5-minute recess so that Ms. Starr may call Mr. Smolinsky and schedule an appointment for tomorrow. The meeting was called back to order at 7:21 pm.* Ms. Starr stated that she tried both telephone numbers for Mr. Smolinsky but did not successfully contact him. Ms. Peterson asked about the cesspool violation that should have been inspected within 24 hours. She explained that someone was supposed to visit the Health Office today to schedule and pay for a percolation test but never came. Ms. Starr stated that this afternoon she contacted Brian Reyenger, a septic installer in Bourne, and scheduled an appointment for Friday. Ms. Peterson stated that since nothing got confirmed or submitted to the office today that Friday is not going to work. Mr. Andrews stated that she, as a landlord, is responsible for the contractors she hires to complete any work done at her property. Their excuses do not excuse her from correcting these immediate issues. These violations were cited just under a month ago from today, if the first contractor you contact has prior engagements, another one must be selected to execute the repair process as soon as possible. The Board of Health has the power to fine you from the date in which the violations were noted that you did not correct them within 24 hours. Mr. Andrews stated that he is inclined to start levying a fine from that date until the Health Office can re-inspect and confirm that the corrections have been made. Ms. Peterson stated that Ms. Guarino and Ms. Davis are not to be inspecting each item one at a time, and that they all should be corrected before an inspection can be scheduled. Ms. Starr received a phone call at this time from Mr. Smolinsky, and scheduled an appointment for tomorrow morning between 7:30 and 8:00 am. Ms. Goonan confirmed. She told him what needs to be corrected, and that she would leave a copy of the updated violation letter at the property for him to refer to. Mr. Andrews stated that if Mr. Smolinsky is unable to complete the items on this list during a full day tomorrow, then he is to complete them on the very next day. If they are not done within 2 days, he will be inclined to start levying a fine of \$100.00 per day per item in violation. Ms. Peterson added that any time Ms. Goonan refuses to let contractors in to make repairs that she may be fined as well. Ms. Guarino stated that the percolation test has not been confirmed as of today. She explained that when she spoke to Mr. Reyenger, he needs to renew his installer permit for the 2018 calendar year and confirm who the engineer would be for this project which is critical. Mr. Andrews asked what a reasonable timeframe would be, if a signed contract is submitted to office, to complete a percolation test. Ms. Guarino stated that it would depend on whether or not Dig-Safe needs to be called. Mr. Andrews stated that a licensed septic installer must visit the Health Office by tomorrow and pay for the percolation test. At that time, if it has not already been done, Dig-Safe must be called. The test must be completed within 72 hours of the time Dig-Safe is called. Ms. Starr stated that she was under the impression that a Title V system was only required if she was selling the property. Ms. Guarino explained that during the last pump out at the property, it was discovered that the system had multiple signs of failure. It was partially collapsed and structurally unsound, the vegetation around it was overgrown, and there was evidence of backup into the riser. Only one sign of failure is required to deem a system failed. Ms. Peterson stated that when the inspectors return to the property, all items are to be corrected and all violations must be resolved before the next Board of Health meeting. Mr. Barlow asked if

the fines would be retroactive from the start date of this complaint, to which Ms. Peterson answered yes. **Mr. Andrews made a motion stating that if the first five items on the list dated January 10, 2018 are not completed after a full day of work, work must be continued the next day until completed. All of the violations must be corrected before the next Board of Health meeting. Further, the percolation test must be conducted by Friday January 12, 2018. If these stipulations are not met, the Board shall issue a \$100.00 fine for each violation per day retroactive from December 18, 2017. Ms. Peterson added that if at any time there has been a 24 hour notice, or a request was issued from the Health Office to allow entry to the dwelling and Ms. Goonan does not comply, she will also receive fines retroactive from December 18, 2017. Mr. Uitti seconded, and the vote was unanimous.** Open discussion. Ms. Starr stated that she requested to be present at the initial inspection in December so she would understand the violations, and was denied. Ms. Peterson stated that there is record of all communication between the Health Office and Ms. Starr, and it seems that she is in contact with either Ms. Guarino or Ms. Davis multiple times a week. If these conversations do not help her understand what needs to be corrected, she is advised to speak to her contractors. The most recent list of violations makes it very clear what must be done. Ms. Starr insisted that she receive further instruction on how to correct these items and stated that the inspection report is wrong about the windows. Ms. Guarino explained the violations that the windows do not open and close easily but they do function. There are broken panes of glass, they are not weather tight, and there is mold, mildew, and chipping paint on the windows and the window sills which must be corrected immediately. Mr. Barlow explained that he understands that she may feel as though she is able to come before the Board and debate these issues. These items are public health related issues and are not debatable. If the order is given for something to be corrected, it must be done in a timely fashion according to the code, and it is not open for debate.

3. **Pocasset Mobile Home Park—Attorney Charles Sabatt—Review status of Receivership and expired conditional manufactured housing community license for the Pocasset Mobile Home Park pursuant to MGL c. 140 §32. Discussion and possible vote.** Attorney Sabatt and owner, Phil Austin, were present for this hearing. Ms. Peterson asked if an application for Motor Home Park permit has been submitted to the Health Department. Atty. Sabatt stated that he has not submitted one, and that he did not receive an application in the mail. Ms. Peterson stated that there were multiple occasions in which he has received a copy of the application, and as of this time the park is operating without a valid permit. Atty. Sabatt stated that he will file the application and pay the fee as soon as possible. Ms. Peterson asked about the submittal of the proposed rules and regulations for the park and if they had yet been approved by the State. Atty. Sabatt stated that they have not been revised or approved by the State. Ms. Peterson stated that he may not receive a permit without these rules and regulations. Atty. Sabatt explained that soon there will be a new operator of the park, and he does not know who that will be. He felt that whomever takes ownership should be included in revising them. Ms. Peterson explained that a letter from Attorney General's office will be needed stating that these rules and regulations are in process. Legally, to issue a permit, the Board requires this temporarily in place of the documents. Atty. Sabatt said he will contact the agency tomorrow, update the regulations, and obtain a waiver/letter from them. Mr. Andrews stated that when these were previously submitted to the Atty. General for review, they were sent back with specific corrections and where to make them. Ms. Peterson asked Atty. Sabatt to submit the application as soon as possible or the Board will continue charging fees for noncompliance. Atty. Sabatt asked when the fines started being imposed, and Ms. Guarino answered November 2, 2017. Atty. Sabatt asked the Board to abate the fines, and requested that he be given an opportunity to attempt to correct the issues at hand. He expected his receivership to have been finished on November 1st, and apologized that the expectations the Board had of him were not met. He stated that he hopes they will reconsider fining him due to the challenges and the uncertainty he has experienced within the last few months. Mr. Andrews asked Ms. Guarino if notices went out after the Board deliberated on fining the park, to which she replied that they had. He continued that at this point the noncompliance has not been satisfied, and once that is corrected and a request for abatement is received, then it can be put onto a meeting agenda for review. Mr. Barlow clarified that once the rules and regulations are submitted and approved, they may not carry over to the next operator(s) of the park. They may use the same documentation but the new operator(s) must submit their own copy of rules and regulations upon issuance of a new permit. Ms. Peterson asked if there were any comments from the audience at this time, to which there were none. **Ms. Peterson made a motion to take no action at this time, and to continue to the next meeting. This gives Atty. Sabatt ample**

time to submit rules and regulations or Atty. General's letter as well as an application to the Health Department, and be able to file for abatement of fines. Mr. Andrews seconded, and all were in favor. Open discussion. Atty. Sabatt updated the Board on the status of receivership stating that under his final order from the Court, he must submit a completion report. The DEP has issued the final permit for the wastewater treatment plan at the park. On November 20, 2017, the Court gave an opportunity for the objecting creditor to oppose Atty. Sabatt's completion report. They did oppose regarding the transfer of income from Atty. Sabatt to whomever takes ownership. They believe they are entitled to a portion of that income, so the process is being held up because of this. Also, the judge that has been working on this case has since relocated to Lowell. Due to that relocation, the next hearing had to be rescheduled to January 30, 2018. Atty. Sabatt has no plans to make any changes until that time.

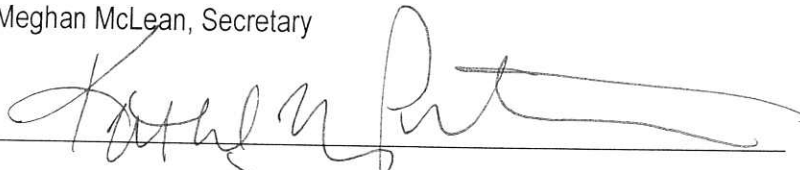
4. **3 Sunny Lane—Owners, Karen and Mark Schraut—Update on property in violation of Title 5, 310 CMR 15.024(6), by failing to repair/ upgrade a septic system and take other corrective action as ordered by the Bourne Board of Health on November 14, 2017. Discussion and possible vote on penalties for noncompliance.** Mark and Karen Schraut present for this hearing. Ms. Guarino stated that she had a last minute submission that came to her attention at around 4:00 pm this evening regarding 3 Sunny Lane. She received a letter of transmittal from engineer Carmen Shay requesting to conduct a percolation test. She has not had any communication from the property owners, and per the November 14th meeting they were given 30 days to schedule and complete a perc test. This request exceeds the 30 day order. Mr. Andrews stated that he is not comfortable with this transmission. He explained that the Board issued an order on November 14th to have a percolation test completed at the property within 30 days, and long after the set deadline a request is submitted for additional time. He stated that it is not the Board's responsibility to manage your contractors and satisfy the orders that were given 2 months ago. The completion date was set to be January 14th. If an extension is given now, every step will need an extension, and he does not want to start a pattern. Mr. Schraut explained that they spoke to Mr. Shay a few weeks ago, and were under the impression that he had already contacted the Health Department to get this underway. The house at the property suffered a tragedy during the storm. The pipes connected to the water tank above the kitchen burst, causing the kitchen ceiling to collapse onto the floor. Further, the home was completely flooded, and his wife contacted the Health Inspector, Zack Seabury, immediately afterward. Mr. Seabury met the realtor to inspect the property on Monday January 8, 2018 and declared it unfit for human habitation, which is when Mr. Schraut learned that Mr. Shay had not contacted the office to schedule the perc test. The Schraut's just found out from their realtor that this item was still on the agenda. Ms. Peterson stated that at our last meeting with the Schraut's, they stated that the property was in the process of being sold. Mr. Schraut explained that the potential buyer backed out due to the recent storm damage. They have had many showings, but no solid offers at this time. Ms. Peterson stated that the 18th is next Thursday, so upon approval of this extension, paperwork must be submitted to the Health Office by Friday. Ms. Guarino stated that within the past 24 hours, our office has received a few inquiries regarding scheduling a perc test for this property. She asked if Mr. Schraut could confirm that there is a solid contract. She spoke to his wife earlier this afternoon, but it was not entirely clear whether a contractor was hired or not. Mr. Schraut explained that Mr. Shay did not give him this letter until this afternoon as well, so his wife had been calling multiple contractors in an attempt to secure something before time ran out. Ms. Guarino stated that the office is happy to schedule a test as soon as possible. The inspectors are fairly quick and accommodating, but certainly need to know who is contracted with and for them to pay in advance. Ms. Peterson stated that she thinks the payment should be received by tomorrow as an assurance that the test will be completed immediately. **Mr. Andrews made a motion to grant an extension until Thursday January 18, 2018 for completion of perc test as long as the test is paid for and scheduled by tomorrow. Mr. Barlow seconded, all were in favor and the vote was unanimous.**
5. **Approve the Minutes from the meetings dated December 11th and December 13th, 2017. Mr. Uitti moved to approve the minutes dated December 11th, Mr. Andrew seconded, and the vote was unanimous. Mr. Barlow abstained. Ms. Peterson made a motion to approve the minutes dated December 13th, Mr. Uitti seconded, and the vote was unanimous. Mr. Barlow and Mr. Andrews abstained.**

6. Set tentative date for next meeting and adjourn. The next Board of Health meeting is tentatively scheduled to be held on January 24, 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 8:16 pm.

Taped & Typed by Meghan McLean, Secretary

Kathleen Peterson



Stanley Andrews



Galon Barlow Jr.

Don Uitti

Kelly Mastria

cc Board of Selectmen/Town Clerk