**TOWN OF BOURNE**

**BOARD OF HEALTH**

**24 Perry Avenue**

**Buzzards Bay, MA 02532**

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**MINUTES**

**November 12, 2014**

**Members in attendance: Kathy Peterson, Chairman; Stanley Andrews, Vice-Chairman; Donald Uitti, Secretary; Galon Barlow; and Kelly Mastria**

**Support Staff in attendance: Cynthia Coffin, Health Agent; Terri Guarino, Health Inspector; Lisa Collett, Secretary**

**Meeting was called to order at 7:00 P.M by Chairman Kathy Peterson.**

**1. Landfill – Dan Barrett – Discuss and possible vote regarding Emergency Notification Protocol –**Mr. Barrett was present for discussion on the rewritten Emergency Contact Protocol last updated 11/13/14. He read through the written document. He stated that if changes need to be made, he will do them. The read from the document:

Objective:Establish a protocol designed to ensure that in case of extraordinary Events (reportable) at the Town of Bourne Department of Integrated Solid Waste Management Facility (ISWM) located at 201 Mac Arthur Blvd. (Rt.28 north) Bourne, Massachusetts that have potential to negatively impact the health, safety and welfare of Bourne Residents, employees or the environment the Town of Bourne Board of Health will be notified in a timely manner.

Reportable Event: Any event that could have the potential to negatively impact the health, safety and welfare of Bourne Residents, employees or the environment. Reportable Events may include but are not limited the following list of examples;

1. **Fire:** Any fire requiring a response by the Bourne Fire Department
2. **Spills:** Any material spill including but not limited to, waste oil, leachate and chemicals that require a response from the Bourne Fire Department and/or notification to the Massachusetts Department of Environmental Protection (MADEP). Reportable spills may include but are not limited to any uncontrolled release of a controlled or regulated material via broken or damaged storage containers, broken or leaking pipes, damaged equipment like fuel, chemical or oil storage tanks.

**Method of Contact:**

Once the incident scene has been secured and imminent danger to staff, the general public and the environment has been controlled, the on scene ranking ISWM official or his/her designee will place a phone call to Bourne Health Director (Cynthia Coffin). During normal business hours Monday-Friday 8:30 AM to 4:30 PM the Board of Health can be reached by calling (508) 759-0600 Ext. 340, 341 or 342. After regular business hours you are to call the Health Director’s Mobile Phone at (508) 776-6420. If you do not get an answer leave a message giving a detailed description of the event and who has responded, for example the Bourne Fire Department, Local Haz Mat Team, Bourne Police Department, MADEP, the time of day and your mobile phone number to facilitate the call back. If you are not able to contact the Health Director and after leaving a detailed message as outlined above you will proceed to the attached call tree (attachment 1) and attempt to contact each person listed until you reach a live person. If after calling everyone listed on the call tree you still have not reached a live person proceed through the call tree again.

**Establish Chain of Command:**

It is incumbent upon the General Manager to establish a well-defined chain of command (attachment 2) outlining who on-site at any given time is responsible for initiating this procedure to ensure compliance with the Emergency Contact Protocol in his absence.

**Compliance Requirement:**

Failure of the ISWM Department to notify the Board of Health of a Reportable Event in a timely manner will result in the following actions:

1. The ISWM General Manager will be summoned to the next regular meeting of the Board of Health. The General Manager will be required to give an explanation for the failure of the Emergency Contact Protocol.
2. The Board will consider the merits of the General Manager’s explanation, review the ISWM Department’s performance record as it relates to compliance with the Emergency Contact Protocol. Based on its review the board could assign the following penalties;
3. 24 hour closure of the facility
4. 3 day closure of the Facility
5. 1 Week closure of the Facility

The Board members then made comments. Mr. Barlow stated that on the compliance requirement if something really bad happened the Board of Health would do whatever it had to do. He does not believe that the Board would be limited to the items listed in the protocol and he does not think that anything would be serious enough that the landfill would have to be closed for a week. Ms. Peterson asked if Mr. Barlow wanted to add something to that section but he said no. Mr. Barrett said that if the Board got to item B, the Board would not be talking to him anymore. Mr. Barrett stated that he had the contact numbers on the addendum. Ms. Peterson told Mr. Barrett to remove her home phone as she does not have access to that line. Mr. Barrett said that a safety meeting is scheduled for the beginning of December and the protocol will be issued to everyone that works for ISWM and they will discuss chain of command. Mr. Barrett said that at the last event the existing protocol was used and it worked well. Mr. Andrews said that under reportable events he thought that other things might also need to be reported. He said that anything that is referred to under the objectives should be listed in this section. There should be action for anything that has to do with public health. He stated that any event requiring a response from the Bourne Fire Department should be listed and it shouldn’t be limited to spills and fire. Ms. Mastria said that we shouldn’t need to be notified just because an ambulance is dispatched to the landfill. Mr. Andrews agreed but said that if there was a rip in the liner, according to the protocol as written, the Board of Health would not have to be notified. Mr. Barlow asked if something should be added as an item 3 to state that any unusual event that could affect public health or that the ISWM manager feels should be reported, would need to be reported to the Board of Health. Mr. Barlow stated that there have been numerous events over the years that the BOH have been notified about. Mr. Barlow stated that the lack of notification about the recent fire at the landfill is what caused this whole review of protocols. The Board of Health was not notified and now we are looking to have an approved notification protocol. There was a discussion as to what issues could be considered ‘notifiable’ and what should be added to the protocol. It was decided to word the Reportable Event section to read: Any event that could have the potential to negatively impact the health, safety and welfare of the Bourne residents, employees or the environment. Reportable Events may include but are not limited to the following list of examples. Mr. Barrett will reword that section. Ms. Peterson and Mr. Andrews stated that if Mr. Barrett gets a draft back to the Board members and comments can then be made and brought to the next BOH meeting for a vote. Mr. Barrett will not need to come to the next meeting. It was decided that no action needed to be taken at tonight’s meeting. Mr. Barrett will get a revision to the office for distribution. Mr. Mulvey stated that the Board should be contacted about anything that it has jurisdiction over and that anything has to be reported within a reasonable time frame. Mr. Mulvey also stated that maybe there should be other options for penalties. Ms. Peterson said that there is always an option for other penalties. Site Assignment already allows the Board to be able to make other actions. This protocol is only for non-notification to the Board. Mr. Barrett reviewed the call down process. Mr. Mulvey stated that there should be a very limited about of time within which the notification should be made. Mr. Barlow stated then when the Board of Health has been notified in the past it has already been very quickly. Mr. Barrett stated that he could add something to the protocol which stated that once the imminent danger to life and safety is under control, the notification will be made. Ms. Peterson stated that the Board added the penalties if the notification does not take place in a timely manner. Mr. Barlow stated that there should be a little bit of a grey area as to the time for notification based on the situation.

Mr. Barlow stated that he just wants the Board notified before the newspapers know. There was no further action.

2. **35 Park Street – Zac Basinski, Bracken Engineering – Discuss and vote re: request to amend septic plan of record and extend variances.**  Mr. Basinski stated that he was at the meeting on behalf of the owners, Ann and Jack Wood, of 35 Park Street. In April 2012 the Board of Health originally granted variances for the septic system. The owners have finalized there construction permits and hope to start in the next couple of weeks. Mr. Basinski is before the Board because the septic plan has changed and the plan on file is no longer accurate. In addition the variances approved are set to expire soon. Since the last appearance before the Board the owners have made a change to the layout on the site. The garage has now been placed further back on the property and the house has been pushed to the front. There have been no changes in the number of bedrooms or the gross floor area of the house. The proposed leaching is actually now four feet further away from the top of coastal bank. The updated floor plans have been provided to the Board as well. There were some slight interior modifications as to an internal stairway and some doors, but otherwise the plans are basically the same. Ms. Coffin stated that she did not realize that the architecturals had changed too but it does appear that the changes are not significant. Ms. Peterson asked if the Board had done a deed restriction and Ms. Coffin answered that it had not. Ms. Peterson said that she felt there should be one on this property. Ms. Coffin stated that the new variance is only 26 feet where the original variance had been 30 feet. **Mr. Andrews made a motion to grant a variance of 26 feet for the setback of the leaching area to the top of coastal bank and to approve the set of architecturals received by the office on November 6 as the new architecturals of record. The septic plan is that received by the office on November 6, 2014 and drawn by Bracken Engineering. Mr. Andrews also made a motion that there be a four bedroom deed restriction placed on the property. Mr. Barlow seconded the motion. It was a unanimous vote to approve.**

**3. Lobster Trap – 290 Shore Rd, Zac Basinski – Review status of O&M of existing Alternative Septic System -**  Mr. Basinski stated that he was only here to update the Board. He was before the Board back in January. He stated that the system has been inspected four times since then. It was installed in May of 2013. A new grease trap was installed and has been monitored and no grease is carrying over to the new system. Testing results have been submitted to the Board but the results show that the nitrogen loading is not as low as what had been expected. They are currently working to rectify that problem. They hope to come back before the Board in January 14th of 2015. The three issues being looked at are the flow rate going through the system, the chemical compounds of the wastewater, and the chemicals being used in the building. They are trying to look at all three factors and how they might be affecting the nitrogen loading. Mr. Andrews asked a question about the amount of pumping of the system. Mr. Basinski stated that when the grease trap was being pumped, the septic tank and the Microfast system was also pumped and that this was actually not good for the system. This has been rectified. The waste is now staying inside the tank. Mr. Andrews said that the wastewater procedure was supposed to eliminate things like this happening and Mr. Basinski stated that this actually happened before the full procedure was in place. Ms. Coffin asked what the range of nitrogen was supposed to be. Mr. Basinski stated that the effluent is supposed to be at 25 ppm and the results were at 57ppm in March of last year, and there was a reading of 72 ppm at the last result. BioMicrobics has taken all the information about the wastewater flows and is analyzing everything again. Mr. Barlow stated that the system is better than what was previously there and hopefully the problems can be worked out. There was no further action needed by the Board.

**4. 70 Old Dam Rd – request by Cynthia Coffin, Agent, for discussion and possible vote regarding violation of Board of Health condition of previous waiver –** The owners, the Denapolis, Pam and Tom, were present for the hearing. Ms. Coffin stated that in 19 99 the house was built and there was an issue on the setback to wetlands so the Board of Health granted a variance for the construction of the house. Then in 2010, Barbara Frappier of Warwick came before the Board of Health to obtain a waiver for the construction of a work shop with an open storage area above. At that meeting the Board of Health required that there be a direct opening from the first floor workroom to the second floor. There was also supposed to be a solid wall between the main house and the storage room over the workroom so that the room over the workroom could not be considered a bedroom. Ms. Coffin stated that recently she was subpoenaed by the builders of the project to testify in a court case regarding the property and when the builder came in to discuss the issue she was informed that the room was not constructed as per the Board of Health approval. She was informed that the wall had been opened on the second floor and that there were doors from the 1st floor workshop to the second story room that was to have been storage and that this room was being used and now met the definition of a bedroom. Ms. Coffin contacted Mr. Denapoli and told him that she needed to inspect the house to see what existed. She did find that the room over the garage now is considered a bedroom by Board of Health addition. Ms. Peterson asked who had submitted some of the pictures and Ms. Coffin stated that some were from the builder and some were from her when she went out and did the walk thru with Mr. Denapoli. Mr. Denapoli stated that some of the pictures were taken last Jan/Feb. Ms. Denapoli stated that the builders stopped coming when they had their money and didn’t finish the project. Ms. Coffin stated that the Board doesn’t want to get in to the court case. She is being told a different story from the builder. The Board is just looking at the room over the workshop and what has been constructed. Ms. Coffin stated that Mr. Denapoli told her that even though the workroom was supposed to be open to the second floor, the work room is a wood shop and he was having problems with the sawdust getting upstairs so he closed the room off and created a door at the bottom of the staircase and at the top of the staircase. Ms. Coffin stated that the upstairs room is also now open to the main house and there was supposed to be a solid wall there. Ms. Peterson stated that she remembers how the Board voted and conditions placed on the construction. Mr. Denapoli stated that he gave Ms. Coffin pictures that showed that the wall had been put in between the main house and the upstairs room initially. Ms. Coffin said that the pictures don’t really matter because that is not what is there now. Mr. Denapoli stated that he did open up the room later. Ms. Coffin continued the discussion with the photographs on file to try and describe how the second story room opens into the connection room that leads to the main house. She stated that this room needs to be opened up somehow as the Board had originally conditioned. Mr. Denapoli stated that the first floor is his workshop. He stated that about half a level up there is an office. He works at home. This is what was shown as the loft on the original plans. He said that when he used the workshop, the entire upper space was filled with sawdust and the smoke detectors kept going off. He and Mrs. Denapoli decided that it wasn’t feasible to have the sawdust issue and the smoke detectors going off. Mr. Andrews asked why there was a smoke detector in an unfinished storage space and Mr. Denapoli stated that the smoke detector was for his office. Ms. Coffin stated that the loft was shown on the original plan. Mr. Andrews looked at the plans and said that the 2nd floor room was to remain unfinished and there was supposed to be a solid wall between it and the main house. Mr. Denapoli stated that he didn’t know that it had to stay unfinished. Ms. Denapoli said that they are now using that second floor space as a bonus room. He also said that the room was opened to the main house because of fear of being trapped if there was a fire in the workshop. Ms. Peterson read from the minutes where it stated that the room was to be for storage only and that the Board granted the waiver for the addition with this condition. She said that the Board had granted a similar variance down the street at the Barretts. Ms. Peterson read from the minutes regarding the two story addition. She read that Ms. Frappier had stated that the addition was to be for a workshop and storage only and that there would be no habitable space over the workshop. The existing house is a five bedroom house and there is a five bedroom septic system. Ms. Peterson continued to read from the minutes regarding the Barrett’s approval. Ms. Peterson also stated that the minutes show that there was to be no passage from the second story room to the main house. The waiver was only approved for the workshop with storage above, with open access from the lower level to the storage area and a solid wall between the main house. Ms. Peterson said that Mr. Denapoli was aware of the conditions of approval and Mr. Denapoli again stated that he didn’t realize that the conditions had to remain in place. He was concerned about a fire and not being able to get out of the room above the workshop. Mr. Andrews stated that if it had been storage space a shown at the time of the waiver request that would not be an issue because it wouldn’t be habitable space.

Mr. Andrews stated that the loft area was to be storage too. Mr. Denapoli asked if there could just be a deed restriction for five bedrooms. Ms. Coffin stated that the walls in the second story room have to be opened up. Mr. Denapoli stated that one of the doorways could be opened up from the ‘bonus’ room to the main house section over the garage but that there was not enough wall space to have a four foot cased opening into the main house. Ms. Coffin said that in that case the stairway has to be opened so that the room over the workshop does not have minimal seclusion. Mr. Andrews, Mr. Barlow, and Ms. Peterson said that there has to be at least a four foot cased opening so that the room does not offer minimum seclusion. Ms. Denapoli said that the construction was a total nightmare. Ms. Peterson asked what Mr. Denapoli is offering to do to correct the situation. Mr. Denapoli stated that he would prefer not to have to open up walls and was hoping that there could be a five bedroom deed restriction. Ms. Denapoli asked why they couldn’t just open up one of the existing bedrooms. There was discussion among the members and the Denapolis. Ms. Mastria asked why the owner could not just open up an existing room to correct the problem with the number of rooms being considered bedrooms. Ms. Coffin explained that because variances were granted for the original house and the existing septic system did not meet the required 150 foot setback to wetlands, if the proposal had come before the Board of Health to add the habitable room that presently exists it is probable that the Board would have required the retrofit of an alternative technology septic system based on the increase in square footage. She explained that the room over the garage is huge. It doesn’t seem fair to allow them to correct the problem by just opening up a smaller bedroom when the Board would have requested an Alternative if what has been built was originally requested. Ms. Coffin stated that both doorways on the staircase would have to be opened if this was the option considered. Mr. Barlow stated that perhaps the stairway could be opened up from the first floor to the second and there could be a hanging barrier to stop the saw dust. Mr. Denapoli said again that he didn’t realize that the condition was permanent. There was further discussion that the room that exists now would have required an alternative septic system. Mr. Barlow asked if this item could be continued to a later meeting to give Mr. Denapoli time to decide on his plan of action. There was further discussion as to how the room could be opened up. This item will be continued to the first meeting in January. **Mr. Barlow made a motion to continue the item to January 14th. Mr. Uitti seconded the motion. It was a unanimous vote to continue this item.**

**5. 39 Buttermilk Way – request by Cynthia Coffin, Agent, for discussion and possible vote regarding violation of Board of Health variance conditions.** Ms. Coffin stated that the owner lives in Texas and when she met with the builder today he was sick and stated that he probably would not be at the meeting. She would do her best to explain the situation. Ms. Coffin stated that within the last couple of weeks someone came in to the office to discuss a property that she was interested in purchasing on Taylor’s Point. The house at 39 Buttermilk Way has a long history. The house was built but a septic system was not installed and the Board of Health kept asking the State to allow the new house to be tied in to the existing sewer. The Board tried for almost two years but that request was denied based on the condition of the original funding for the sewer on Taylor’s Point that no house built after 1978 be allowed to be tied in to the sewer if it were in a certain flood zone. At the time that the Board of Health had the variance hearing the minutes state that it was a one bedroom house but that the builder stated that there was one additional room that might be considered a bedroom so the Board of Health at that time granted variances for an alternative septic system with leaching for two bedrooms. She found out from the woman who came in to the office that the house was being listed as a 3/4 bedroom dwelling but it was discovered that the septic system was only designed for a two bedroom dwelling. The building inspector also found out that a room over the garage had been finished off without permits and he issued a letter to the owner on that violation. Ms. Coffin stated that she went out to the house today and that the builder had removed all of the sheet rock that had been in the room over the garage. There was still a carpet on the floor and there was door to the main house although it is a step up. The owner had also been told to open up a small room in the house with a cased opening but this was not done. The builder said that there had always been three ‘bedroom’ in the house so he does not know how this was ever called a two bedroom dwelling. Regardless, Ms. Coffin said that she said that house only had a two bedroom septic system and that the small room had to be opened up with a minimum of a four foot cased opening. Ms. Peterson and the Board were concerned that there was no one present at the meeting to discuss the situation. The Board stated that they preferred to continue this item to the next meeting on December 10th and that owner would have to have representation at that time. **Mr. Andrews made a motion to continue 39 Buttermilk Way to December 10th. Mr. Uitti seconded the motion. It was a unanimous vote to continue.** Ms. Peterson asked Ms. Coffin to write a letter to the listing agent explaining the situation and that this item is before the Board of Health.

**6. Approve the minutes from August 18, 2014. - Ms. Mastria made a motion to approve the minutes of August 18, 2014. Mr. Uitti seconded the motion. It was a unanimous vote to approve.**

**7. Approve the minutes of August 27, 2014.- Ms. Mastria made a motion to approve the minutes of August 27, 2014. Mr. Uitti seconded the motion. It was a unanimous vote to approve.**

**8. Approve the minutes of October 8, 2014 – Ms. Peterson made a motion to approve the minutes of October 8, 2014. Ms. Mastria seconded the motion. It was a unanimous vote to approve.**

**Mr. Barlow made a motion to adjourn. Mr. Uitti seconded the motion. It was unanimous and the meeting adjourned at 8:15 P.M.**

Taped by Lisa Collett and typed by Cynthia A. Coffin, Health Agent

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

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

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cc Board of Selectmen/Town Clerk