



SEP 12 2012 26 07 11 48

CLERK'S OFFICE

**TOWN OF BOURNE  
BOARD OF HEALTH  
24 Perry Avenue  
Buzzards Bay, MA 02532  
Phone (508) 759-0615 x1  
Fax (508) 759-0679**



Cynthia A. Coffin,  
Health Agent

**MINUTES  
SEPTEMBER 12, 2012**

**Members in attendance: Kathy Peterson, Chairman; Stanley Andrews; Don Uitti;  
and Carol Tinkham**

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

**Meeting was called to order at 7:00 P.M.**

- 1. POCASSET MOBILE HOME PARK – Mr. Charles Sabatt – Update re: Court Order with regards to Pocasset Mobile Home Park.** – Mr. Sabatt stated that on August 14, 2012 the court issued a final judgment and order on Pocasset Mobile Home Park. Mr. Sabatt stated that Judge Macleod has required that Mr. Austin, within 10 days of the order, transfer the Pocasset Mobile Home Park bank account to the specified receiver, \$2,767,883.00 which is the cost to construct and install a new sewage treatment system. Mr. Sabatt stated that at the request of the Attorney General's Office, he provided Mr. Austin's Attorneys with a bank account number and location for the depositing of the funds. Mr. Sabatt stated Mr. Austin has filed a motion to stay the court order and a motion to amend the order essentially asking the court to reconsider the entry of the order. Mr. Sabatt stated that the Attorney General's Office has filed an opposition to both of the requests to the Superior Court for review by Judge Macleod. Mr. Sabatt stated that he guesses that Judge Macleod will deny the request for a stay and require that Mr. Austin proceed immediately with the deposit of the funds. Mr. Sabatt stated that if that does not occur, his second guess is that the Attorney General's Office will seek permission to begin seizure of Mr. Austin's assets to be used to satisfy this court order. Mr. Sabatt stated that there will be somewhat of a process that they will be engaged in over the next few months. Mr. Sabatt stated it could be several months depending on how readily available the funds are and how accessible the assets are. Mr. Sabatt stated that he had a feeling this would be what Judge Macleod ordered to avoid the closure of the Pocasset Mobile Home Park. Mr. Sabatt stated that a major component of what he recommended was the reconstruction of the water delivery system. Mr. Sabatt stated that he had a design prepared for that with the engineers which would have called for entirely

new conduits. Mr. Sabatt stated that part of the pricing was a lowering of the septic lines to allow additional distance between those lines and the new water lines. Mr. Sabatt stated that will also involve separate metering for every mobile home. Mr. Sabatt stated that his number one reason for this request is to provide a safe water supply system to the residents of the park. Mr. Sabatt stated that this was discussed and debated at the hearing during the summer and the judge was not satisfied enough, under the jurisdiction on the cases before her, to order that funding be provided for a water delivery system. Mr. Sabatt stated that this request is missing from this funding. Mr. Sabatt stated that he recalls the cost being around \$600,000.00. Ms. Peterson asked how this can go forward without a water delivery system. Mr. Sabatt stated he did not know and he is still trying to think about what can be done about it. Mr. Sabatt stated that he is trying to search for some sort of public funding if it is available. Mr. Sabatt stated that he can also check to see if he can sustain conventional funding. Mr. Sabatt stated that a debt service will be required for a conventional loan. Ms. Peterson stated that as she understands it, if there is not a new water delivery system, then installing the septic system is pointless. Mr. Sabatt stated that is it a serious problem and he has spoken with the Attorney General's Office about it and anyone has the power to seek to amend this order at any time. Mr. Sabatt stated that this is one of the things he hopes to get some reconsideration on and hopefully the judge might include the water system in the order. Mr. Sabatt stated that there is a problem with a failed tank in the vicinity of 3<sup>rd</sup> and 4<sup>th</sup> Avenue at the intersection of these two roadways. Mr. Sabatt stated that this was discovered in the early summer during a conference on site that was really intended to address the leaching fields. Mr. Sabatt stated that the DEP has authorized an emergency repair of that area. Mr. Sabatt stated that he does have an estimated cost for that, which has been provided by Peter Valeri. Mr. Sabatt stated that with the advice of the engineers, he has moved forward. Mr. Sabatt stated that it is estimated to take approximately 2 weeks for this repair. Mr. Sabatt stated that they are also replacing several sewer mains within the area. Mr. Sabatt stated that the plans have already been approved by the DEP. Mr. Sabatt stated that these mains will be able to be reincorporated into the new system. Mr. Sabatt stated that on 4<sup>th</sup> Avenue there are some issues with some conduits that run between #4 and #8 and Peter Valeri recommends that these be replaced. He will provide an estimate for the work. Mr. Sabatt stated that at the intersection of 3<sup>rd</sup> and 4<sup>th</sup> Avenues, after a rain storm, there is a significant ponding. Mr. Sabatt stated that in the past it has been handled by natural drainage, which is a ditch that the water flows off of and ends up in the grass. Mr. Sabatt stated that he has requested an estimate to add some catch basins to help alleviate that problem. Ms. Peterson requested that Mr. Sabatt provide in writing these repair requests and send it to the Health Agent, Cynthia Coffin. Ms. Coffin asked about the trenches. Mr. Sabatt stated he is not aware of where they stand right now. Mr. Sabatt stated that he does know of a plan that is being drawn. Mr. Sabatt stated that the leaching trenches is another thing that needs to be addressed fairly soon. Mr. Sabatt stated that he has not yet been given permission to construct the trenches but has been given authority to prepare the plans, submit them to DEP and be ready to go. Mr. Sabatt stated that he does have the funding to handle all of this and he has drawn down on part of the operating account that he took possession of when he became receiver. Mr. Sabatt stated that he drew down

on that for the deposit last week and just as a safety net, he has borrowed some additional money from the county to pay for the balance of the work that has just been reviewed. Mr. Sabatt stated that he felt the need to have sufficient cash in the event of an emergency that will require immediate payment. Mr. Sabatt stated that despite all of these projects on the drawing board, there have not been any real significant issues here. Mr. Sabatt stated that he feels everything that needs to be addressed is being addressed. Ms. Coffin stated that there are 7 or 8 pits that are dry. Ms. Coffin stated that she is just starting to see water in a couple of them, so there are still 6 that are bone dry. Ms. Coffin stated that when she, DEP and Mr. Sabatt were last out there they were all still dry and she is just trying to stay ahead of the game and get more trenches permitted just in case. Mr. Sabatt stated that the problem between 4th and 8th may be the roots from a cedar tree which will be fixed with replacing the pipe. Ms. Peterson asked what the Judge will do. Mr. Sabatt stated that the judge will probably deny the stay. Ms. Peterson stated that she does not have a copy of what Mr. Austin stated in reply to the judgment. Mr. Sabatt stated that he does have a copy and will send a copy to the office. Ms. Peterson asked if Mr. Sabatt will submit a rebuttal. Mr. Sabatt stated that he is not required to submit one. Mr. Sabatt stated that his role in the legal process is more neutral. Mr. Andrews asked what the timing will be for the next legal action. Mr. Sabatt stated that there is no request for a hearing on the current motion to amend the judgment so Judge Macleod could act on this without a hearing. Mr. Sabatt stated he feels within 2 to 3 weeks there should be a decision. Mr. Sabatt stated that his feeling is Judge Macleod will deny. Mr. Sabatt stated at that point, Mr. Austin will appeal but the problem they will have is they still have to comply with the order. Mr. Sabatt stated that the appeal does not stop the order from going into effect. Mr. Sabatt stated that if Mr. Austin refuses to turn over the funding, then next move will be from the Attorney General's Office to begin seizure of the assets to satisfy the order. Mr. Andrews asked when the last time Mr. Sabatt met with the residents. Mr. Sabatt stated he met with the residents in August 2012 and will try to have another meeting the first week of October 2012. Mr. MacDonald from 4<sup>th</sup> Avenue stated that it seems it could be months before the residents can know what will happen. Mr. Sabatt stated that it all depends upon how compliant Mr. Austin is with this order. Mr. Sabatt stated that it also depends on what kind of authority the Attorney General's Office is going to seek and obtain. Mr. Sabatt stated that this is an analysis on his part but believes the Attorney General's Office is beginning seizure of Mr. Austin's assets. Mr. Sabatt stated that Mr. Austin did have to make a disclosure of his assets and all his assets are now frozen under the court order. Mr. Sabatt stated that to answer Mr. MacDonald's question, it is yes, it could take several months. Mr. Sabatt stated that even if he gets the ok tomorrow, there is still a huge issue with the water delivery system. Ms. Peterson stated that will take time and involve engineers etc. which takes a long time to figure out. Mr. Sabatt stated that he has discussed this with the County and they cannot see a way to fund it. Mr. Sabatt stated he will speak with the water superintendent to see if he has any ideas. Mr. Sabatt stated that earlier in his investigation he found a non-profit agency out in western MA who told him that if he could find the funding for the septic system then he may be able to find a grant to pay for the water delivery system. **Ms. Peterson thanked Mr. Sabatt for his update. No action need be taken at this time.**

2. **7 BENNET'S NECK RD – Bracken Engineering – Re-issuance of variances granted September 9, 2009 and amend the plan of record.** – Mr. Bracken went over the history of the project since 2002. Mr. Bracken stated that since the 2009 variance request, some of the conditions have changed. Mr. Bracken stated that originally in 2009, he requested a 50% reduction in the length of the leaching trench so that it would not have to go under the driveway. Mr. Bracken stated that one of the conditions of the Boards' approval was to lengthen it and not ask for the reduction; which he did not have a problem with so that is what the current plan shows. Mr. Bracken stated that by meeting that condition, he highlighted the distance to the BVW which is 136 feet. Mr. Bracken stated that in 2009 he requested an 8 foot variance and now he is requesting a 14 foot variance because he did increase the trench. Mr. Bracken stated that the new variance needs to be revised in the approval. Mr. Bracken stated that he is asking for a 75 foot variance to the top of the coastal bank across the street from the site. Mr. Bracken stated that there is probably 200 feet or so from the actual marsh. Mr. Bracken stated that coastal bank is delineated by definition only. Mr. Bracken stated that because of the grading on the lot he is asking for an 11 foot separation between the full foundation and the leaching trench and is proposing an impervious barrier between the leaching and the house. This will allow him to keep the house as close to the street as he can because of the way the lot drops off. Mr. Bracken stated that this was already granted and he is not asking for any changes. Mr. Bracken stated that the last paragraph of the approval references the architectural plan that he submitted in 2009. Mr. Bracken stated that the reason he is back now is because the property is under agreement. The builder is going to construct the home and it will be limited to 3 bedrooms. There are no final plans at this point. Mr. Bracken stated that he is asking that the approval be re-written so that when Ms. Coffin reviews the plans she can confirm that it is a 3 bedroom dwelling. Ms. Coffin stated that her only concern is usually the board has a dated set of architectural plans that are recorded, referenced and attached to the deed recording. Ms. Peterson stated that at the registry it is not. Ms. Coffin stated that she does submit the plans. Ms. Peterson stated they are only referenced in the letter. Ms. Peterson stated that she has not seen very many plans attached at the registry. Mr. Andrews stated that they can place a condition that the architectural plans must be in before approval of the septic permit. Mr. Bracken stated that the property is almost 2 acres and consists of 2 lots. Mr. Bracken stated that when he did the hydrogeologic analysis, he showed that there is 5.4 parts per million just using the effluent and it is 1.45 parts per million if you include the wetland area. Mr. Bracken stated he needed to clear up the request letter. He no longer needs the poly barrier. Mr. Bracken stated that on the letter dated September 6, 2012, the second item is no longer requested. Mr. Bracken stated that this does not affect the variance request. Ms. Coffin stated that the abutters are the same from the time they filed back in 2009 in fact 2 were removed. Mr. Andrews stated that there was an extension that the Governor had given to extend out 2 years. Mr. Bracken stated that the actual extension is 4 years. **Mr. Andrews made a motion to approve the conditions with the variances that are indicated in the submitted letter of request: a 14 foot variance from the required 20 foot setback of the soil absorption system to the northern portion of the BVW.** Mr. Andrews amended and

added to his motion to state that when the architectural records become available they will be submitted to Ms. Coffin for final review. Mr. Uitti seconded the motion. Ms. Coffin stated that it should also be included in the motion that all previous conditions of 2009, i.e. the deed recording, and the maintenance and 2 year contract for the Alternative system remain in effect. Mr. Andrews so moved. All in favor and the motion PASSES. Ms. Coffin asked if the new dates were included in the motion. Mr. Andrews amended the motion to reflect the new dates of the plan dated September 4, 2012 received by the Board of Health on September 5, 2012. Mr. Uitti seconded the amendment. All in favor and the whole motion PASSES.

Mr. Andrews made a motion to adjourn. Mr. Uitti seconded. It was unanimous. The meeting adjourned at 7:33 PM.

Respectfully taped and typed by,

Lisa M. Collett  
Secretary

Reviewed and approved by

Cynthia A. Coffin  
Health Agent

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

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

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

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

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

Board of Health Minutes September 12, 2012