



**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  
April 27, 2011**

**Members Present:** Kathleen Peterson, Chairperson; Stanley Andrews, Vice Chairperson; Galon Barlow, and Carol Tinkham. **Member Absent:** Don Uitti

**Support Staff:** Carrie Furtek, Health Inspector and Kathy Burgess, Secretary

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

- 1. Chuck Sabatt-Receiver for Pocasset Mobile Home Park-**Discuss & Vote regarding Park license; update on Park Status-Mr. Sabatt stated that he has been appointed as the receiver for the Pocasset Mobile Home Park by the Suffolk Superior Court. He was appointed on February 18, 2011 and has been primarily been trying to stabilizing the rents which is fundamental to operating the park and addressing the overriding issue which is the septic system. Mr. Sabatt stated that he has spoken with Ms. Coffin as to what would be the best approach to the system to prevent it from continually overflowing. Ms. Coffin recommended that the best thing to do was to try and pump the system dry at least once a month. Mr. Sabatt contacted Capeway and they then pumped it dry. Within 3 days of pumping it dry there was an overflow at one of the leach pits which was pumped dry again and it continued to overflow each day. Mr. Gilpin, Capeway, recommended that the best thing to do was to put in some emergency overflow leaching. Ms. Coffin met them at the site and they then contacted Brian Dudley, DEP, who met with Mr. Sabatt's engineer. Mr. Andrews also made a site visit. It was decided that they would go ahead on an emergency basis and install some leaching pits. The DEP told them to just go ahead and do it, don't file a plan or wait for a permit as it was an emergency. They installed six leaching trenches and there has not been a problem since they have been installed. Mr. Sabatt stated that he has been approved through Barnstable County for a septic betterment loan. DEP has also approved of the loan. The rent is under control and Mr. Sabatt has identified most of the occupants of the Park. Mr. Sabatt stated that his next step would be to address the condition of the roads at the Park. Some of them are

nearly impassable and he has plans to patch the holes and regrade. BSC Engineering is in the process of preparing the ground work and planning for onsite wastewater treatment plant. He will be meeting with DEP and getting a list of requirements from them and that plan is currently being developed. Mr. Sabatt stated that they have hopefully resolved the overflow problem. This is only a temporary emergency resolution. Ms. Peterson stated that the conditions of the temporary license that was given to the Park have not been addressed yet. They have to be addressed one by one and the Board may consider changes because Mr. Sabatt has taken over the Park but they still need to be addressed. Ms. Peterson stated that the temporary license cannot be issued until they have been addressed. Mr. Sabatt stated that he has been distracted with the other issues at the Park but will review the license. He will take a look at the escrow requirement. Ms. Peterson stated that Mr. Sabatt has the authority to make requests for changes to the conditions. Mr. Barlow stated that the Board wanted a fence around the pits because of the overflows but if the overflow is under control they may be able to reconsider requiring a fence. Mr. Sabatt would have to request that in writing. Mr. Andrews stated that he was there when they were putting in the leaching trenches and asked when the completion date was. Ms. Furtek stated that she thought it was about two weeks ago. Mr. Andrews stated that it would help to have written documentation from Capeway that they have not had to go out and work on the field at all. That may help alleviate the fence issue and some of the other items. Ms. Peterson stated that she believes that it was the first meeting in March that the Board issued the temporary license for 60 days. Ms. Peterson stated that the Board is willing to work with Mr. Sabatt. Mr. Sabatt stated that he will run through the conditions and will send a letter to the Board and will address what he can in the meantime. Mr. Andrews asked if the flyer with the management companies name and number on it was posted on the Board in front of the Park. Mr. Sabatt stated that he believed it was. Mr. Sabatt stated that Linda Fobert was the on-site manager. Ms. Fobert does not live there but lives close by. It is Charterhouse Management that will be available 24 hrs. Mr. Sabatt stated that he met with the residents on Saturday morning and it went very well. Ms. Fobert was also there. Mr. Gately asked how many residents there were at the Park. Mr. Sabatt stated that his best estimate is 89 but believes there are more. Mr. Sabatt stated that they are working on identifying all the residents. Mr. Sabatt stated that when he took over as receiver in February he did not have any names, records or leases. He went door to door with two constables and had forms for people to fill out and they were able to identify most of the residents. A number of residents have called Mr. Sabatt on their own. Mr. Sabatt stated that the only interaction he has with Mr. Austin is through his attorneys. Diana Barth asked Mr. Sabatt if he was able to collect any back rent. Mr. Sabatt stated that he has not been able to collect back rent due to lack of information. The rent that has been collected is some for March 1 and all of the rent due April 1 and he is now seeing some rent due for May 1. The Board thanked Mr. Sabatt for coming in with an update.

- 2. 45 & 47 Cove Lane-Continued-**Brad Birtolo, JC Engineering for Thomas LeBlanc-Request variances-Mr. Birtolo and Thomas LeBlanc are both in

attendance tonight. Mr. Birtolo stated that he met the Board Members for a site visit last Sunday. Mr. Birtolo passed out handouts to the Board. Ms. Peterson stated that she has a deed for 41 & 45 Cove Lane but was unable to locate the deed for Mr. LeBlanc for 47 Cove Lane. Mr. Birtolo stated that 47 Cove Lane is currently under the ownership of Richard Clarke who is deceased. Mr. LeBlanc stated that he closed on the property today. Ms. Peterson stated that the new ownership was not on record as of 4:00 P.M. today. Mr. Birtolo showed the Board on the map what parcels Mr. LeBlanc owns. Mr. LeBlanc owns 41 & 45. Part of 47, where the house will be built, comes onto 45. It will be one street address. Mr. Barlow stated that they had approved a two bedroom house in that spot years ago for Richard Clarke. Mr. Birtolo stated that at the last meeting there was some concern regarding the nitrogen loading and whether wetland areas should be included or not. Mr. Birtolo stated at the site meeting on Sunday there was an extremely high tide and only a portion of the Northern property was under water. Mr. Birtolo went over the sheets he gave to the Board and stated that, showing the whole lot, 1.49 was the loading rate after accounting for all the grass and bedrooms. The second sheet he removed the marsh area along a portion of the site, roughly 27,000 sq. ft. of the area along the North and is still getting less than 2 parts per million. The third sheet is considering an alternative septic system, utilizing a nitrogen loading of 19 parts per million. The third sheet just included upland area only and delineated the portion of the wetland that is within the vicinity of the proposed work. The whole site is 3.3 acres and the site he has included is about 1.5 acres. Taking into consideration the nitrogen loading, he has 3.19 parts per million which is still below the threshold of 5. Mr. Birtolo stated that he also tried it with a conventional septic system with upland area only and it is 4.9 parts per million. That would be a conventional title V septic tank to a leaching field. That also takes into account the roof area, the gravel area for the driveway, and the lawn area which is delineated at the request of the Conservation Commission. Mr. Birtolo stated that they have a considerably large piece of the property compared with the neighborhood and there are houses in the neighborhood that range from 2-5 bedrooms with much smaller lots. They are proposing a 4 bedroom dwelling which is typical of the area and the size is similar to other homes in the area. Mr. Barlow stated that he remembers that the Board struggled with this just to put a two bedroom home there. Ms. Peterson stated that then they didn't own this other piece of property and they were out on the site visit at the highest tide she has seen in a long time. Mr. Birtolo stated that the UV will be connected to an alarm but he has not changed that on the drawings yet. Mr. Barlow stated that this area was not considered buildable at one time and now they are being asked to put a big project in there. Mr. Birtolo stated that they now own a bigger piece of land. Mr. Barlow stated that he does not see that the other piece of property makes it any different and the piece of property is basically more filled wetland. The marsh there was extensive but they filled part of it but were not allowed to build on it. Ms. Peterson stated that there are some pretty large houses in that neighborhood. Mr. Andrews looked over the soil logs. Mr. Andrews stated that they would like an indicator that can be seen from the street with an alarm if the UV light goes out. It will have to have bulb protection and an

indicator that shows the system is energized. Mr. Andrews stated that the Board has had issues with people turning off the power to their blowers and disconnecting the system. Mr. Andrews asked if the residence would just be a summer home. Mr. LeBlanc stated that it would mostly be year round. Mr. Barlow stated that he believes that the project is too big for the site. Mr. Barlow stated that they approved a two bedroom on that site before because they believed the project proposed was too big for the site. Mr. Barlow stated that he realizes Mr. LeBlanc has bought more land but the land he bought is not really upland. Mr. Birtolo stated that they had the uplands delineated and it is a big piece of land. Ms. Peterson stated that she was impressed at how dry the site was considering the high tide. Ms. Peterson stated that they have received a letter from Robert Dwyer of Kenwood Rd stating that he was concerned about the shellfish beds in that area should the project be approved and urged the Board to protect this resource. It was received by the Board of Health on April 27, 2011. Diane Prince, 40 Cove Ln, stated that she is concerned that there is a 150 ft setback and on all four sides they are asking for variances. Ms. Peterson stated that that is not unusual. Ms. Prince asked why they have the 150 ft setback. Ms. Peterson stated that you have to have a place to begin and that is where the Board, many years ago, went with what they felt was safe but anyone has the right to come and ask them for a variance. Mr. Barlow stated that the Board has to remain consistent when people come in for variances on projects and if they allow this pretty significant project, in his opinion, you might as well let anyone build anywhere. Mr. Barlow stated that he believes, from what he saw, that this was one step up from swampland. Mr. Barlow stated that he has spoken with some of the neighbors and they are very concerned about the project. Richard Clarke had to jump through quite a few hoops to get his project approved which was only a two bedroom dwelling. Ms. Prince stated that she is also concerned about the variety and quantity of the shellfish in that area. Ms. Peterson stated that it is the job of the Board of Health to make sure that a septic system can withstand a certain area and take into consideration the amount of use that it will get but not how big to build a house. Mr. Andrews stated that at the last meeting Ms. Coffin has some issues with Mr. Birtolo's initial nitrogen calculations. Mr. Birtolo stated that she had probably scaled off the grass area. Mr. Barlow stated that that area is problematic. Ms. Peterson stated that Mr. Birtolo is taking out all the wet areas and is still coming in at 3.19 which is really low. Ms. Peterson asked Mr. LeBlanc if he was firm in building a four bedroom home. Mr. LeBlanc stated that he would like the extra room for his grandchildren. Mr. Andrews stated that since the property was given an approval for a two bedroom there has been some upland added but this project is double the amount of bedrooms. Ms. Peterson stated that they have also doubled the lot size. Mr. Andrews stated that they have not doubled the upland area but he does like that the proposal came in with the alternatives. Mr. Andrews stated that he would feel a lot more comfortable with a three bedroom house on the system. It would decrease the load and they could use the existing tank. Mr. Birtolo stated that the load is already less than required. Ms. Peterson stated that when they did the site visit less than a quarter of the land was under water. Ms. Peterson stated that there was more water in her backyard than

there was in this lot. Ms. Tinkham asked where the water grade underground was. Mr. Andrews stated that he believed that it was 4 ft. Mr. Barlow stated that, in his opinion, much better for this particular lot because it was problematic to approve it for a two bedroom. Mr. Barlow stated that they have doubled the amount of land but a lot of it is wetland and it was flagged as wetlands by John Churchill. Ms. Peterson stated that if they were asking for a four bedroom with a current three bedroom system she would be against it. Ms. Peterson stated that he is putting in a new system with UV and nitrogen. Mr. Barlow stated that UV really means nothing unless it's really clear. Mr. Birtolo stated that 4 bedrooms is two people per bedroom and it is highly unlikely that there will be 8 people in the house year round. Mr. Barlow stated that if that is the case they probably don't need four bedrooms. Mr. Birtolo stated that they want the space. Mr. LeBlanc stated that if the Board prefers pressure dosing he would be willing to do that. Ms. Tinkham stated that she was not comfortable with a four bedroom home in that location. Ms. Peterson asked, even though the system fully supports what they are building and their calculations come in almost 2 ppm below the Board's policy. Mr. Andrews stated that Mr. Birtolo took all the wetlands out on the new calc sheet and used upland only for the nitrogen loading. Mr. Birtolo stated that there is still infiltration through the wetland area because it is not inundated by high tide so the actual numbers will be less. Mr. Birtolo stated that if the Board prefers to see a pressure dosing system the applicant is willing to do that. That alone will have a pump and an alarm. Mr. Andrews stated that with the addition of pressure dosing and emergency generator backup for the system he would feel comfortable with it. **Mr. Andrews made a motion to grant a 74.4 ft for the setback to the reserve area to the bordering vegetative wetlands to the West- A 72.4 variance for the setback from the reserve area to the wetland resource area to the North-A 28.2' variance for the setback from the reserve area to the wetland resource area to the Southwest-A 49.9' ft variance for the setback from the leaching area to the wetland resource area to the South. The system shall also have pressure dosing, an emergency generator on site, a standard quarterly testing per Board of Health policy and all said lots to be deeded and recorded with a restriction for no further building allowed on site. The reason the variances are approved is because of the alternative system and that it conforms with the Board of Health policy of 5 ppm with the calculations showing 19 ppm using only the upland areas. Also, an alarm system is required with a power on indication light visible from the street and the alarms to be interconnected on all components. Proof of ownership of the lots is also required. Ms. Peterson seconded the motion. Mr. Barlow is opposed. All others in favor and the motion PASSES 3-1.** Ms. Peterson stated that Mr. Birtolo must submit a new plan and the deed for 47 Cove Lane before any permits are issued.

3. **Debbie's Veggie Depot-Continued-441 Shore Rd-Debbie Larsen-**Request to allow expanded use of existing business-Mr. Barlow is stepping off for this item as he also holds a food license in Town. Ms. Larsen stated that she would like to have a smoker and a raw bar outside of the building. Ms. Larsen stated that she

has put her life savings into the business and has had to pay on the lease all winter and had to come up with something to save her business. They would like to bring the Town more alive and has noticed that a lot of businesses in that area have failed. Ms. Larsen stated that she has come from a long line of family owned fish markets on Martha's Vineyard. Ms. Peterson stated that the Board did a site visit last week and asked Ms. Larsen about catering and told her that she needed a catering license to do that. Ms. Peterson stated that Ms. Larsen was told to take the catering sign down until she applied for the license and she has not done that. Ms. Larsen apologized and stated that she did not realize that she had to take the sign down. Ms. Peterson stated that she still has some problems with how the food is getting prepared even though Ms. Larsen told her that she was buying it and reselling it. Ms. Peterson stated that she has to prove that to the office by showing the invoices for the food she has bought. Ms. Larsen agreed. Ms. Larsen asked if she had a commercial restaurant kitchen she could use would that be allowed. Ms. Furtek stated that she would have to get the license from that kitchen and inspect it before she would feel comfortable with it. Ms. Larsen stated that if there is ever any excess such as soup she does not pour it into the sink and only disposes of it in the trash. Ms. Peterson stated that if this is approved everything has to be labeled and all ingredients have to be listed. Ms. Furtek stated that they will have to know how guacamole will be made and stored. Mr. Andrews stated that he believes they should be helping out the businesses in Town and assist them when they can. Mr. Andrews stated that Ms. Furtek could give a list to Ms. Larsen of exactly what she is allowed to sell and to list what she has to do in order to sell certain items. Mr. Andrews stated that because of the septic system they cannot have this turn into a restaurant and they have to maintain that there is no seating outside as well. Ms. Larsen agreed. Ms. Furtek stated that she would help Ms. Larsen with a list but that they need to have more communication from them. Ms. Peterson stated that she spoke with the fire dept regarding a smoker and it cannot be done under the overhang. Ms. Larsen stated that they were not going to put it under the overhang. Ms. Peterson stated that she is against the raw bar until these issues are straightened out with regards to what they want to sell and what they are allowed to sell. Mr. Andrews stated that they need to get things ironed out first with the office. Ms. Larsen stated that they have put no smoking signs in the windows and nobody will be smoking at all there. Ms. Peterson stated that it is all screened in and there cannot be any cigarettes any where on that property. Mr. Andrews stated that he would like to see procedures regarding the smoker and with anything else she has planned. Ms. Peterson stated that Ms. Coffin had left a note not to approve this but the Board is going to allow them, for a temporary time, to use a smoker but the office needs to be brought up to date on what they are doing. **Mr. Andrews made a motion to APPROVE the use of a smoker for cooking meats in the exterior of the facility with the stipulation that it adheres to any requirements of the fire dept. and that the property maintain a non smoking status. The documentation must be brought up to date with the office before the next meeting.** Ms. Larsen stated that she is in the process of getting a grant to update the septic system. Ms. Peterson stated that once everything is set Ms. Larsen can come back before the Board and request the raw

bar but they will not approve that now. **Carol Tinkham seconded the motion. All in favor and the motion PASSES.** Mr. Barlow returned at this time.

4. **787 County Rd-Robinson & Elizabeth Whitaker-** Request waiver to use the existing septic system for renovations- There was a question regarding the green cards and if they had all been turned in. There were two green cards missing and Mr. Whitaker did not have the receipts that they had been mailed. Mr. Whitaker stated that the Town has put him through the ringer with this project. Ms. Peterson stated that the green cards have to be turned in before the item is heard and that is a law which has nothing to do with the Town of Bourne. Mr. Whitaker asked if he had to reissue all the green cards. Ms. Peterson stated that he only had to notify the abutters that had not been notified and he will put on the agenda for the next meeting. Mr. Whitaker stated that he did not want to withdraw and would continue it until the next meeting on May 11, 2011. **Mr. Barlow made a motion to CONTINUE 787 County Rd until the next meeting. Mr. Andrews seconded the motion. All in favor and the motion passes.**
5. **91 Elgin Rd-Don Bracken for Steve Karlson-**waiver to continue use of existing system with addition of nitrogen removal and UV unit-Mr. Bracken stated that the property is located on the West side of Elgin Rd and consists of approximately 32,500 square ft. Currently on the property is a six bedroom single family dwelling. The existing house has a septic system that was installed in 2010 which consisting of a 1500 gallon septic tank and soil absorption system designed for the six bedroom based on 660 gallons per day. Mr. Karlson would like to renovate the house and maintain the existing six bedrooms. Currently there is one bedroom in the basement which would be moved up to the second floor. The primary expansion on the building will be the second floor with additional support added to the front of the house. Mr. Bracken stated that the packet he submitted to the Board includes calculations for the increase in living area for bedroom and non bedroom space. There will be a 49% increase in bedroom space and a 31% increase in non bedroom space. Nitrogen loading calcs, under existing conditions, 10.5ppm under proposed calculations it would be 6.1ppm which is because they are proposing to add a high strength microfast denite system. Along with that system they are adding a UV light prior to the soil absorption system. Mr. Bracken stated that they typically do pressure dosing but because the septic system is less than a year old they are proposing, rather than pressure dosing and changing the leaching system they are proposing the UV light. The UV light will be maintained under a contract with the same company that will maintain the denitrofication unit which will be subject to the quarterly testing and a report that also includes inspection of the UV to make sure it is operating. The variances are to the top of the coastal bank and to the mean high water mark. Mr. Bracken showed the Board on his map the area of the coastal bank which primarily follows the flood elevation which is 15 until it intersects the retaining wall runs along the building and another wall to the driveway and back down. That coastal bank is by definition from DEP having to do with the slope above the flood zone. Mr. Bracken stated that the primary variance would be to the mean high water mark

where they have a separation of 125ft to the SAS so they are asking for a 25ft variance for that resource area. The two locations closest to that would be 70ft heading West and 34ft heading south to the coastal bank. Mr. Bracken stated that they see the project as an improvement. There is no increase in the number of bedrooms and an almost 50% decrease in the nitrogen loading and they have received a request for determination flexibility from the Conservation Commission where they reviewed the resource area delineations for the work they are proposing in the front. The contractor was not aware that the septic would have to be upgraded so they will refile with Conservation for the work to put the septic tank and the UV light in. Mr. Andrews stated that the previous applicant for another agenda item had proposed a UV light system that had detection that could detect if the lamp was working and if not, trip an alarm. Mr. Bracken stated that if the Board wanted to make that a condition they would not have a problem with it. Mr. Andrews suggested that Mr. Bracken come back after he gets approval from Conservation. Ms. Peterson stated that they could make the approval with the understanding that if it is not approved by Conservation they will take back the Board of Health approval. Mr. Andrews asked when they marked the delineation for the original project. Mr. Bracken stated that it was March 21, 2011. **Mr. Barlow made a motion to APPROVE the request for the upgrade of the system at 91 Elgin Rd. with the inclusion of an alarm to the UV light and pump system with a microfast that is visible from the street and an indicator light that indicates that the system is powered. Also following the alternative system policy which includes quarterly reports. A 25ft variance from the 150ft setback from the high water mark. Ms. Tinkham seconded the motion. All in favor and the motion is APPROVED.** Mr. Barlow stated that he was comfortable approving the project because of the elevation of the property on Elgin Ave.

6. **22 Chamber Rock Rd.-Brenda Hickey-Request for horse license-Evyn Hanley** is accompanied by her Aunt, Caroline DeRosa. Evyn stated that she is getting the horse from Linda McKenna. Mike McKenna is going to help make a three sided lean-to with a door and roof that will be all enclosed. They have a shed to store all the hay. The barn will be 10x10. Manure will be shipped out every Sunday. The corral and paddock area slopes from back to front and is completely fenced so the horse will have ¼ of an acre to roam. Evyn stated that it is at least 100 ft from any dwelling on Chamber Rock Rd. and they plan to provide a larger area for grazing this summer. The grain and feed will be stored in covered metal bins and any openings are screened against flies and other insects. Evyn stated that all abutters were notified and she is aware of the penalties for any violations. There were no audience members against the request. Mr. Andrews stated that Evyn had done her research and had addressed each regulation one by one with her application. **Mr. Andrews made a motion to APPROVE the request for a horse license at 22 Chamber Rock Rd. Ms. Tinkham seconded the motion. All in favor and the motion PASSES.**



7. **Pocasset Auto Service-810 MacArthur Blvd.- James Champini**-Hearing for failure to obtain licenses for tobacco and retail-James Champini did not attend the meeting. **Ms. Peterson made a motion to fine Mr. Champini \$100.00 per day and issue a cease and desist as of tomorrow morning from selling all cigarettes and food items. The fine will start from the date of this hearing which is April 27, 2011. Mr. Champini has the right to appeal the fine. Mr. Andrews seconded the motion. All favor and the motion PASSES.**

**8. Board of Health deliberation on proposed Wind Turbine Regulations. No further testimony accepted-** Ms. Peterson stated that no further testimony was being accepted so any materials that were given to the office after the agenda was posted at noon on Thursday April 21, 2011 would not be reviewed. Ms. Peterson stated that she was very proud of the Board Members for all the hours they have spent on the wind turbine project and would like to know if everyone on the Board, after the lengthy hearings, agrees that reasonable health regulations need to be adopted. Mr. Andrews stated that they had already agreed on that and had already come up with four regulations and believes there is sufficient information to start drafting regulations for noise and flicker. Ms. Peterson asked the Board to express their thoughts on any kind of regulations they would like to see and they will write it down and have them looked at by counsel. Then the draft regulations will come back for a public hearing to be deliberated on. Ms. Peterson stated that she would like to meet with Mr. Wall in the next two weeks or so. Ms. Peterson stated that the consensus of the Board is that they find it necessary to demonstrate the need for regulations. Ms. Peterson asked if there was a go ahead from the Board as a whole to draft the regulations. **Mr. Barlow made a motion that the Board of Health write wind turbine regulations to address environmental, safety and health issues related to wind turbines. Ms. Tinkham seconded the motion. All in favor and the motion is APPROVED.** Mr. Andrews stated that he would like to discuss the topic of flicker first. Mr. Andrews stated that he finds it very concerning that there is health effects for people with epilepsy and that the flicker should not extend beyond the property bounds of the property that it sits on and shall not affect public ways. Mr. Andrews would like to leave room for variances to be done on that which would be granted with the approval of property owners that would be affected and recorded at the Registry of Deeds. No variances to be given to public ways, places of worship, schools, public buildings, playgrounds, hospitals, nursing homes or rest homes. Ms. Peterson asked the Board if they had thought about the standards with which they want to go with as far as size or height. Mr. Andrews stated that he does not believe that that has anything to do with the Board of Health. He believes that the Board just address noise and flicker one at a time and if they find an additional item that may be a potential for health effects they can discuss it at another time. Ms. Peterson stated that she would like everyone's opinion. Mr. Barlow stated that they discussed a lot more than just flicker. They have heard about infrasound and safety issues related to fire. Mr. Andrews stated that they have not had public hearings on those. Mr. Barlow stated that that was not necessary. Ms. Peterson stated that information on those items was brought up at public meetings and they can be discussed and a regulation can be written for it. Mr. Barlow stated that he is concerned because right now if someone had enough land they could put up a turbine 1000 ft tall. Mr. Barlow stated that he feels they should address each proposed turbine

individually and site specific. He believes that they should look at the location and size of the turbine and what is located near it such as public buildings or residential business. Mr. Barlow stated public safety and fire is a big concern. If there were to ever be a fire in the turbine access may be very difficult to gain. The fire issues have to be addressed because people want to put the turbines in residential areas. Mr. Barlow stated that they should have the ability to review the engineered plans on all the turbines and models that are planned for the area. Mr. Barlow stated that he believes they need the right to approve, modify or reject any proposed wind turbine. Ms. Peterson stated that she agrees with Mr. Barlow that each turbine should be examined but what should trigger their review. Ms. Tinkham stated that they have to be focused on the health effects. Mr. Andrews stated that the concern of the Board is the health regulations and that is why they took specific testimony on noise and flicker. Mr. Barlow stated that they have to decide what they consider a turbine. A small windmill on the side of someone's home he does not consider a turbine. Ms. Peterson suggested that any turbine that produces electricity could be a good trigger point. Mr. Andrews stated that you could do compressed air or a windmill for water but you can actually gage it as a windmill that does work. Ms. Peterson asked what would trigger their threshold. Mr. Barlow stated that it should be defined as a turbine that converts energy. Mr. Andrews stated that he would rather have it worded *that does work*. He would like to define work as converting to some type of energy or performing a function. Mr. Andrews stated that they should have a defined set of regulations that they have to adhere to and if they can't they have to come before the board and ask for a variance. Ms. Peterson asked what the threshold should be for requesting a variance. Mr. Andrews suggested that if it doesn't conform to the regulation anyone can request a variance. If it produces a flicker that extends beyond the property they will have to come in for a variance and they have to notify abutters. Mr. Andrews stated that he wants to exclude from being available for a variance places of worship, schools, public buildings, playgrounds, hospitals, nursing homes and public ways. Ms. Peterson stated that she believes that one of their largest health concerns would be a catastrophic accident. She would like the Town and the people to be prepared and would like to see an insurance policy of 2 million plus that rolls over as inflation goes up with the Town of Bourne as policy holder. Ms. Peterson stated that if it cost \$100,000 to put up one of the turbines she would like to see 3x that amount in an insurance policy for removal and damages. Mr. Andrews stated that maybe something they should require with each of these applications is that a failure mode analysis be done by an independent engineering firm paid for by the applicant chosen by the Board of Health. There are so many different versions that would tell them what the potential issues might be for a catastrophic failure. Mr. Barlow stated that regardless of how big it is he would like to see the area around the base of the turbine fenced with a Knox box attached so that any fire or police personnel could enter it during an emergency and that there be a system there that has the ability to shut the turbine down, for whatever reason, that the Board of Health and emergency personnel have access to and not have to call an 800 number somewhere to do that. Ms. Peterson stated that it sounds to her like the threshold of where they want their review to come in is at all levels because of the information that was heard at the public meetings. Mr. Andrews stated that they have to look at setting a real number that can be measured and addressed by the Health Agent and be clear enough so that when they get a complaint it can be easily figured out. Mr. Andrews stated that you

can have triggers for review but you still have to have reasonable values that are enforceable and recordable. Ms. Peterson stated that it goes back to health effects which can become a nuisance and should not extend beyond the property that the turbine sits upon. Mr. Andrews stated that the neighbor could agree to a waiver but it would have to be recorded as a deed restriction in case the property was ever sold. The applicant and property owner would also have to come before the Board of Health with the request. Ms. Tinkham stated that she does not have a problem with looking at the turbines but would not want to have to experience the noise or flicker and believes that you have to have a large amount of space between the turbine and neighboring properties. Mr. Andrews stated that concerning the sound they discussed the 10 DB being the doubling. 6 DB is 1.5 times, 3DB is 1 ¼ times the sound level as you go up. The acoustic power of the sound 10DB is 10 times the power, 6DB is four times and three DB is double power, the imaging of that sound. Mr. Andrews stated that is the point when you experience the pulsating infrasound. Mr. Barlow stated that site specific, and size should be considered. Mr. Barlow stated that if you go to the vocational school that wind turbine does not have a tremendous affect even if the wind is very strong. Mr. Andrews stated that the way sound works the further away you are the stronger the echo. Mr. Barlow stated that a 100 ft tall turbine may not be as offensive as one that is 500 ft tall. Mr. Andrews believes that the regulations should focus more on the property lines than the size. He would also like a mitigation plan. Ms. Peterson stated that there are potential health hazards there that may not be known for the next 10 years very much like what happened with second hand smoke. If Boards of Health had not adopted regulations back then a lot more people would have gotten sick. Ms. Peterson stated that she believes that there was not any concrete evidence that said turbines would not cause these health problems. Mr. Barlow stated that what they are talking about is the same as setting a setback except the setback will be based on the height and shadow. Mr. Andrews stated it will be on shadow flicker and noise. Mr. Barlow stated that the setback will be variable on the size of the wind turbine. Ms. Tinkham stated it will also depend on how far away the next property is. Mr. Barlow stated that he was thinking of a proposed setback of 3500 ft because they have heard of setbacks as much as 7000ft are recommended from credible people. Ms. Tinkham stated that it may work with the noise but they will always come back with the argument that they can regulate the flicker. Mr. Barlow stated that that was what happened in Falmouth where the flicker bothered people and they called the number to complain and the turbine did not get shut off. Ms. Peterson stated that they are looking to make sure these health effects and safety issues are addressed and what the Board's jurisdictional threshold is. Mr. Andrews stated that he believes because of possible catastrophic failure you are going to have a complete review of every turbine. When it comes to flicker he believes there should be no exposure off the property. Ms. Peterson stated that however you look at it, it is a nuisance and does not think anyone should have nuisance imposed on them for the sake of renewable energy. She believes that because they have not proven to her that this is going to be the renewable energy, the Town will be stuck with the turbines for hundreds of years and you have to put controls that no one thinks about twenty years up the road. Ms. Peterson stated that you are not going to control flicker with trees or with an 800 number and you will not control the sound with an 800 number. Mr. Andrews stated that they should also put in the regs that if something develops further down the line as a health effect they can readdress or reopen it. Mr.

Andrews stated that he cannot let something go in that is going to potentially affect someone's health and they have to develop some type of values and strict numbers that trigger what they cannot do and he does not believe that setbacks cover it properly. He believes it should be based off true health risks and they have heard testimony that the noise and flicker does that. Mr. Barlow stated that you also have to worry about a turbine catching fire and that fire spreading through the trees. Mr. Andrews stated that you could put that under the catastrophic section. Mr. Barlow stated that there are a lot of issues they need to address. Mr. Barlow stated that another reason they would want to address these individually rather than as a power unit or a power plant is because once it becomes a power unit or power plant then they do not have to pay any attention to local control. The Board of Health in Plymouth has no oversight over the nuclear power plant there. Mr. Barlow stated that you want to keep them individual as wind turbines, not as a power unit or power plant. Ms. Peterson stated that the US has not asked for a catastrophic plan for wind turbines because everyone thinks that it will never happen. Anything can be a health hazard when the worst happens. Ms. Peterson stated that there should be a rigid threshold on the turbines and someone has to look out for the residents now and 25-50 years from now. Ms. Peterson stated that she would write the regulations and Mr. Wall, Town Counsel, will assist the Board of Health in review. Ms. Peterson stated that at the next meeting, May 11, they will have the beginnings of draft regulations with regards to wind turbine, siting and location. Ms. Peterson stated that everyone has done a great job and she appreciates all the testimony submitted. **Mr. Barlow made a motion that Ms. Peterson proceed with the writing of the regulations regarding wind turbines that the Board has discussed tonight. They will be brought back to the Board on May 11<sup>th</sup> 2011 for further review and/or approval. Mr. Andrews seconded the motion. All in favor and the motion is APPROVED.**

**9. Approval of minutes dated April 6, 2010-The minutes could not be approved as they were dated on the agenda as 2010 instead of 2011.**

**10. New Business-** Mr. Barlow stated that he is running for Selectmen and may have to step down from the Board of Health if he is elected. The Board asked for an update on 62 Old Plymouth Rd. Ms. Furtek stated that everything is done and believes that the bank will appeal the fines.

**Mr. Andrews made a motion to ADJOURN. Ms. Peterson seconded the motion. All in favor and the meeting is adjourned at 9:32 P.M.**

Taped and Typed by Kathy M. Burgess for the Bourne Board of Health

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

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

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

Donald Uitti\_\_\_\_\_

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

cc Board of Selectmen/Town Clerk