



# TOWN OF BOURNE BOARD OF HEALTH

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Terri A. Guarino  
Health Agent

## MINUTES August 17, 2016

**Members in attendance: Kathleen Peterson, Chairman; Donald Uitti, Secretary, Kelly Mastria, and Galon Barlow**

**Support Staff in attendance: Terri Guarino, Health Agent, Jamie Butler, Health Inspector, and Lisa Collett, Secretary**

**PUBLIC MEETING WAS CALLED TO ORDER AT 6:59 pm**

- 1. LANDFILL UPDATE-- Dan Barrett, General Manager, Department of Integrated Solid Waste Management (ISWM)—Discussion of recent events at C&D Transfer Station.** Dan Barrett was present for this meeting. Ms. Peterson stated that there have been some recent events at the landfill. Ms. Peterson thanked Fire Chief Sylvester for his guidance the week prior. Mr. Barrett stated that there was a fire at the ISWM construction and demolition building last Wednesday night. The fire was larger than the previous fire in 2014. Excessive smoke made it difficult for firefighters to identify the exact location of the fire. The outside sheeting had to be removed to allow enough air through the building so that the Bourne Fire Department could finish extinguishing the blaze. ISWM was able to get equipment into the building at roughly 3am Thursday. Under Fire Chief Sylvester's direction material was removed allowing more room to surround and douse the fire. The material was removed to the landfill where it was further wetted and eventually bottom ash to separate the material in order to eliminate the potential for the material to reignite. Mr. Barrett personally thanked Chief Sylvester and the Bourne Firefighters as well the Firefighters from Sandwich, Onset, Middleboro, Falmouth, Mashpee, Wareham, Joint Base Cape Cod, and the American Red Cross for all of their support in controlling this fire. Mr. Barrett continued stating that moving forward, Mr. Guerino has requested a meeting be set up that includes himself, Fire Chief Sylvester, and the ISWM staff to discuss what has been learned from the aspect of prevention and adding standard daily procedures and operational adjustments that will reduce the likelihood of another event. Mr. Barrett stated that there has also been outreach to other facilities operators which have had similar issues to see what they have learned. Mr. Barrett stated that they will also be looking at better ways to reconstruct the building to make it easier to work a fire. The ISWM is currently working with an insurance adjuster to move the re-opening process ahead in the safest and cost effective route. Contractors are developing estimates to get the building back online. Chief Sylvester stated that it took 17 hours to control the fire, from start to finish and

that it was with the help of ISWM pulling the material out. Chief Sylvester stated that it takes a long time to manage a situation like this one especially with the humidity and the heat burning through resources. Chief Sylvester stated that resources and personnel was the biggest issue that faced the Bourne Fire Department that night. Chief Sylvester stated that this fire was handled more differently than the last time. Differences were: burned through a lot of resistor, didn't call in additional breakers to have tanker task force, and rotated staff by having crews in and out. Chief Sylvester stated that the hover craft was called to come in from Middleboro because the smoke was not moving that night. Chief Sylvester stated that his ultimate goal is to look at the operation and re-evaluate to come up with a better system that hopefully prevents a fire from starting and also in the case that a fire occurs, to handle it better. Mr. Barlow stated that he is glad no one got hurt. **No action was taken at this time.**

2. **51 ACADEMY DR – CONTINUED from July 27, 2016 - Jamie Butler –Non-compliance of the State Sanitary Code, Chapter II-105 CMR 410.00: Minimum Standards of Fitness for Human Habitation – Failure to comply with an official BOH order dated July 14, 2016 – The Board of Health will discuss and possibly vote on a finding that the dwelling or a portion thereof is unfit for human habitation.** Amanda Rancourt and Nicholas Webber were present for this meeting. Mr. Benway was not in attendance. Ms. Butler stated that bathroom sink was recently fixed. Ms. Butler continued stating that at the time of inspection there was water all over the bathroom floor. Ms. Butler also added that the plumbing inspector went to the property. Ms. Butler provided the Board with a letter from the plumbing inspector summarizing his findings. The findings are that the toilet, bathroom floor, and possibly the flange need to be replaced. Ms. Guarino stated that this is the third toilet and that the toilet was supposed to be replaced within thirty days of the first order to correct. The toilet and the bathroom are in worse condition due to the water damage. **Ms. Peterson made a motion to fine the owner of 51 Academy Drive, Mr. George A. Benway III, a fine of \$300.00 daily for violations of the State Sanitary Code, Chapter II-105 CMR 410.00: Minimum Standards of Fitness for Human Habitation with fines initializing on July 15, 2016 to the current date. Mr. Uitti seconded this motion. The vote was unanimous.**
3. **PROPOSED PLASTIC BAG BAN--- Heather DiPaolo, Recycling Committee—****Informational discussion on proposed plastic bag ban by-law.** Heather DiPaolo, Rosanne Bottaro, Betty Steudel, Katherine Kiritsis, and Amy Sharp were present for this meeting. Ms. DiPaolo stated the recycling committee has been working with ISWM on the plastic bag ban bylaw. The recycling committee feels that it is an environmental concern for a town that it is surrounded by water. Ms. DiPaolo stated that up to 5 times a day plastic bags are what stop the machines on the trucks and at the landfill. Many plastic bags are stuck in trees. Ms. DiPaolo stated that the towns that have passed the plastic bag ban so far are: Nantucket (since 1990), Provincetown, Falmouth, Harwich, Wellfleet, Barnstable, Truro, and 6 towns on Martha's Vineyard. Also the towns of Plymouth, Mashpee, Sandwich, and Yarmouth are considering implementing the plastic bag ban bylaw. Ms. Peterson stated that someone needs to regulate this, and that the Board of Health does not have the staff to regulate it. Ms. DiPaolo stated that this will be regulated on a complaint basis, and that a letter will have to be generated. Ms. DiPaolo stated that the first offense is a warning, second

offense is a \$50.00 fine. Ms. DiPaolo stated that stores are on board with this and are not resisting. Ms. Peterson stated that a plastic bag is a plastic bag and that all plastic bags such as dry cleaner bags should also be included. Mr. Barlow stated the BOH cannot discriminate. Ms. Mastria stated that if you are going to ban one type of plastic bag you might as well ban them all. Ms. Peterson stated that the fines need to be consistent with the Mass General Laws. Ms. Guarino noted that the City of Cambridge ordinance has exemptions listed in their plastic bag ban ordinance. Ms. Guarino read the exemption verbatim, *the commissioner may exempt a retail establishment from the requirements of this chapter for a period of two years upon finding by the commissioner that the requirements of this chapter would cause undue hardship to a retail establishment. Any exemption granted by the commissioner pursuant to this section shall expire after two years. A retail establishment may reapply when the exemption expires.* Ms. Guarino feels as if implementing these exemptions would be a good idea for the small business. Mr. Barlow stated that many business use many different types of plastic bags. Mr. Barlow stated that targeting that one type of plastic bag as a nuisance would be beneficial. Paula Cody was present for this meeting. She stated that she works in a liquor store in town and that they utilize plastic bags. Paula Cody stated that sometimes there is a bag tax on bags except for low income people. Ms. Cody read that it is a myth that plastic bags jam stream line recycling machines, and that they are actually 100% recyclable. New Yorkers are encouraged to return all of their plastic bags to a recycling program. Ms. Peterson stated that this is a great start so far, but she feels that if you are going to ban one type of plastic bag, then you should ban them all. Mr. Barrett stated that the plastic bags do jam the machines. **Ms. Peterson thanked the recycling committee for attending the meeting. No action was taken at this time.**

- 4. 49 MONUMENT NECK RD – Barbara Frappier of Warwick and Associates for Victor and Michelle Pozza – Request a 41.5 foot variance from the 150 foot setback to a wetland resource area for new construction of a single-family dwelling.** Ms. Frappier and Jack Landers Cauley were present for this meeting. Ms. Frappier stated that this project came before the BOH many years ago and was approved by the BOH and conservation, however, it never went forward. Ms. Frappier stated that the wetland resource area is an isolated wetland across the street. Ms. Frappier stated that the variance is for the distance from the leach field to the isolated wetland resource area across the street. Ms. Frappier also stated that on the Nitrogen Loading Calculation Sheet it reads “8.4ppm” and that a question was posed to her as to why this property did not require a de-nitrification system. Ms. Frappier stated that she made an error on the nitrogen loading calculation sheet and the true number should be “10.2ppm”. There will be a deed restriction filed with the Registry of Deeds for a two bedroom dwelling. At the time, a hydrogeological study was completed and demonstrated that there was no water flow from this property towards the pond. The hydrogeological study was completed in 1989. Ms. Guarino has not reviewed the hydrogeological study. Ms. Peterson asked Ms. Frappier if the 10.2 nitrogen loading calculation could be improved. Ms. Frappier stated that it cannot be improved unless vegetation is removed. Ms. Peterson asked Ms. Guarino if she would still like to see an alternative technology installed here. Ms. Guarino feels as if a nitrogen loading calculation sheet should have been submitted demonstrating the loading calculation with the use of an I/A system. Ms. Guarino stated that if the

nitrogen loading calculation was improved with the use of an I/A system than an I/A system would be favorable. Ms. Peterson asked Ms. Frappier why an I/A system was not proposed. Ms. Frappier responded that it was not proposed due to financial reasons as it is only a two-bedroom dwelling. Ms. Guarino does like that a hydrogeological study was conducted. Mr. Barlow stated that houses in that area are subject to flooding. Jack Landers-Cauley stated that the fact there was a hydrogeological study completed is a significant difference. **Mr. Barlow made a motion to approve the request for a 41.5 foot variance from the 150 foot setback to a wetland resource area for new construction of a single-family dwelling located at 49 Monument Neck Road. This variance approval is contingent upon a two bedroom deed restriction. Mr. Uitti seconded the motion. The vote was unanimous.**

5. **12 BRYANT ROAD- Zachary Basinski of Bracken Engineering for William and Anne Burchill – Request variance from Town of Bourne Board of Health Regulations for proposed construction of a new sewage disposal system with an alternative testing system to accommodate the raze and rebuild of the single family dwelling: a reduction in setback distance for the proposed soil absorption system to the adjacent salt marsh from 150' to 87' (a 63' variance).** Mr. Basinski of Bracken Engineering for William and Anne Burchill was present for this meeting. There is a memo from conservation stating that the salt marsh has been accurately delineated as shown on the plan. This system will include a MicroFAST de-nitrification unit and a BioDiffuser soil absorption field with pressure distribution. Mr. Basinski is requesting a 63' variance for the distance from the soil absorption system to the salt marsh. Ms. Peterson stated that the owner is responsible for having an O&M contract for the life of the system and complying with the local regulations. **Ms. Peterson made a motion to approve the request for variance from the Town of Bourne Board of Health Regulations for proposed construction of a new sewage disposal system at 12 Bryant Road with an alternative testing system to accommodate the raze and rebuild of the single family dwelling: a reduction in setback distance for the proposed soil absorption system to the adjacent salt marsh from 150' to 87' (a 63' variance). Mr. Uitti seconded the motion. The vote was unanimous.**
6. **83 ELGIN ROAD- Zachary Basinski of Bracken Engineering for Andrew and Kelly Laurence – Request for waiver from the Town of Bourne Board of Health Regulations to continue to use existing sewage disposal system for proposed addition and renovations. Existing system is 81 feet from Coastal Bank and 137 feet from Red Brook Harbor mean high water.** Mr. Basinski of Bracken Engineering for Andrew and Kelly Laurence was present for this meeting. Walter Sullivan, the contractor, was also present for this meeting. Mr. Basinski stated that the existing 4 bedroom house was built in 1980. Mr. Basinski stated the leaching pit at this property was last inspected in 2012 and passed the inspection. Proposed floor plans have been submitted. The renovations to this property include: adding a small addition onto the front of the house, doing internal room renovations, adding dormers onto the roof and reconfiguring the second floor layout. The existing bedroom above the garage is being converted into a game room and the existing sitting room into a bedroom. The dwelling will remain a four bedroom house. The Nitrogen Loading

will remain the same at 9.1 ppm. Mr. Basinski is requesting a 69' waiver from the existing soil absorption system to a non-water dependent coastal bank and a 13' waiver from the existing soil absorption system to the high water mark of Red Brook Harbor. This has been reviewed by the Conservation Commission. Ms. Peterson read Ms. Guarino's notes stating that a site inspection was conducted and that the proposed renovation does not change habitable space. **Ms. Mastria made a motion to approve the request for a waiver from the Town of Bourne Board of Health Regulations to continue to use existing sewage disposal system for proposed addition and renovations. Existing system is 81 feet from Coastal Bank and 137 feet from Red Brook Harbor mean high water. This approval is based on the architecturals received on August 10, 2016 and the plan dated July 19, 2016. Mr. Uitti seconded the motion. The vote was unanimous.**

7. **150 RED BROOK HARBOR ROAD LOT 2– Zachary Basinski of Bracken Engineering for Edward C. Robinson and Revocable Trust – Request variances from Town of Bourne Board of Health Regulations for proposed new construction and an alternative sewage disposal system: reduction in setback distance for the proposed soil absorption system reserve area to a non-water dependent coastal bank from 150' to 111' (a 39' variance), and a reduction in setback distance for the proposed primary soil absorption system area to a non-water dependent coastal bank from 150' to 122' (a 28' variance).** Mr. Basinski of Bracken Engineering for Deborah Juckett was present for this meeting. Mr. Basinski stated that Ms. Juckett is the potential buyer of this property. Ms. Peterson stated that a variance cannot be granted to someone who does not own the property. Ms. Peterson would like to see proof in the form of a notarized letter that the owner on record has given Mr. Basinski permission to represent the trust. Ms. Guarino stated that this septic system is designed for a five bedroom system and that under the Board of Health bedroom definition, the dwelling has seven bedrooms. The bonus room and the unfinished storage area would need a cased openings. **Ms. Peterson made a motion to continue this waiver request to the next Board of Health meeting. Mr. Uitti seconded this motion. The vote was unanimous.**
8. **150 RED BROOK HARBOR ROAD LOT 1– Zachary Basinski of Bracken Engineering for Edward C. Robinson and Revocable Trust – Request variances from Town of Bourne Board of Health Regulations for proposed new construction and an alternative sewage disposal system: reduction in setback distance for the proposed soil absorption system reserve area to a non-water dependent coastal bank from 150' to 0' (a 150' variance), a reduction in setback distance for the proposed primary soil absorption system area to a non-water dependent coastal bank from 150' to 7' (a 143' variance), a reduction in setback distance for the proposed soil absorption system reserve area to a salt marsh from 150' to 100' (a 50' variance, and a reduction in setback distance for the proposed primary soil absorption system area to a salt marsh from 150' to 118' (a 32' variance).** Ms. Peterson made a motion to continue this waiver request to the next Board of Health meeting. Mr. Uitti seconded this motion. The vote was unanimous.

9. **4 CENTRAL BLVD—CONTINUED from July 27, 2016 - David MacLean for Jeffrey and Pamela Siefried – Request variances from Title 5 of the State Environmental Code for proposed new construction: 10 foot variance from street, 5 feet from abutting property line, 6 foot variance from abutting property line, 2 foot variance from SAS to foundation, 10 foot variance from potable water line (sleeved for 30'), 3 foot variance from pump chamber to foundation; a 68 foot variance from the 150 Foot Setback Regulation; and waivers to use the existing system and not conduct a hydrogeo study.** Ms. Peterson recused herself for this discussion. David MacLean Architect for Jeffrey and Pamela Siefried was present for this meeting. Mr. MacLean stated this was continued from the last meeting where he was asked to make modifications. BSS Design made the modifications to the septic plan. Ms. Guarino stated that installing the I/A technology at this property is consistent with the rest of the neighborhood and meets the requirements for new construction. Ms. Guarino stated that in the revised plans includes a MicroFast system as discussed at the last meeting of the Board. **Ms. Mastria made a motion to approve the request for variances from Title 5 of the State Environmental Code for proposed new construction: 10 foot variance from street, 5 feet from abutting property line, 6 foot variance from abutting property line, 2 foot variance from SAS to foundation, 10 foot variance from potable water line (sleeved for 30'), 3 foot variance from pump chamber to foundation; a 68 foot variance from the 150 Foot Setback Regulation; and waivers to use the existing system and not conduct a hydrogeo study. This approval was based on the revised plan received August 9, 2016. Mr. Uitti seconded the motion. The vote was unanimous.**
10. **68 MONUMENT AVENUE—Michael Steller, Owner—Discussion and possible vote to rescind fines for I/A septic system noncompliance—CONTINUED from July 27, 2016.** Michael Stellar was present for this meeting. Ms. Peterson stated she read the letter that Mr. Stellar submitted to the Board of Health. Ms. Peterson continued that she felt perturbed by this letter and his accusations that he was not informed. Ms. Peterson stated that he was informed and that this was not the Board of Health's fault. Ms. Guarino stated that Barnstable County Department of Health and Environment does the initial notification. Barnstable County notified Mr. Steller in June, which was followed by Ms. Guarino's letter and meeting with the Board of Health in July. Ms. Guarino feels that this fine could have been avoided if Mr. Steller was available for the Board of Health meeting. Ms. Guarino further states that the important part is that this system is now in compliance. Mr. Steller stated that he is a surgeon and works in Boston and was unavailable for the last Board of Health meeting. Mr. Steller stated that this is a new septic system and he apologized to the Board of Health for the tone of the letter. Ms. Peterson stated that due to emergency nature of Mr. Steller's business she would be okay with waiving the \$500.00 fine. **Ms. Peterson made a motion to waive the \$500.00 issued to Mr. Steller of 68 Monument Avenue. Mr. Uitti seconded the motion. The vote was unanimous.**
11. **TOBACCO REGULATION—Discuss and possibly vote to amend existing Board of Health Tobacco Regulations pursuant to MGL c.111 s. 131. Clarify definition of Retail Tobacco Store on page 6, correct penalty on page 10 (5), and**

**possibly eliminate page 8 section F which prohibits the sale of flavored tobacco products.** Ms. Peterson stated that she recently visited a store and was asked to clarify the tobacco regulation. Ms. Guarino stated that on page 6 the definition of a retail tobacco store should be a retail establishment that maintains a valid permit for the retail sale of tobacco products as required to be issued by the Board of Health annually. There was a typo on page 10, where there was a fine listed as \$100 that should have been \$300. On page 8, the prohibition of the sale of flavored tobacco products, Ms. Guarino proposes allowing the sale of flavored tobacco products since blunt wraps were prohibited. Ms. Cody of Seaside Wine and Spirits, brought products in to show the Board of Health. Ms. Cody feels as if menthol cigarettes are a flavored tobacco product and this is confusing. Also that flavored E-Ciggs are commonly purchased by people wanting to quit smoking. **Pursuant to MGL c.111 s. 131, Mr. Barlow made a motion to amend the existing Board of Health Tobacco regulation to clarify the definition of Retail Tobacco Store on page 6, correct penalty on page 10 (5), and possibly eliminate page 8 section F which prohibits the sale of flavored tobacco products. Mr. Uitti seconded the motion. The vote was unanimous.**

- 12. 41 CEDAR POINT DRIVE—Abandoned property in violation of the State Sanitary Code and MGL c.111 s.122. Discuss and possible vote on noncompliance and failure to correct violations and failure to pay fines.** No one was present for this hearing. Ms. Butler stated that that property has been in non-compliance with the Board of Health for about one year. Ms. Butler continued stating that the non-compliance initiated on June 30, 2015. A leak occurred within this dwelling that caused the owners to move all of their belongings from the inside of their house to the outside. There are major appliances, couches, mattresses, and many scattered debris locate on the exterior of this dwelling. Additionally, the septic system is caved in and there is a wooden pallet on top of this caved in septic that reads "hole". This caved in septic is a safety hazard. Ms. Butler stated that the brush in the exterior of the property is extremely overgrown. Ms. Butler stated that these conditions are prime conditions that will attract animals to the property. Ms. Guarino stated that a large portion of this property was cleaned in 2015. Ms. Peterson stated that the owner of this property died, and that there is a reverse mortgage on this property. It appears this property may go to foreclosure. Ms. Peterson asked what the town can do to clean up this property in the meantime. Mr. Barlow stated that he would like to conduct a site visit. Ms. Guarino stated that this property may be a good candidate for the Board of Survey to review. Ms. Peterson states that the Board of Survey is a good idea. Ms. Guarino stated that the Board of Survey will evaluate the structure. Ms. Guarino stated that tickets have been issued to the owner of this property. Ms. Guarino asked if this property needs a legal remedy. Ms. Peterson stated that she would look up the mortgage information. **Ms. Peterson made a motion to continue 41 Cedar Point Drive to the next Board of Health meeting. Mr. Uitti seconded the motion. The vote was unanimous.**

- 13. Discuss and set date for I/A Septic System Training for Board of Health Members.** Ms. Guarino mentioned that in order to vote on this matter, it needs to be advertised in the newspaper prior to the meeting date. Ms. Peterson stated that having the discussion prior to the voting date will be beneficial. Mr. Barlow stated

that after Labor Day is best for his schedule. Ms. Guarino feels this meeting should take 1.5 hours. **There was general discussion on this matter and the date was set for September 14, 2016 at 5:00pm.**

**14. APPROVE THE MINUTES – From July 13, 2016 – CONTINUED from July 27, 2016. No action was taken at this time.**

**15. APPROVE THE MINUTES – April 13, 2016, April 27, 2016, May 11, 2016 and May 16, 2016 – CONTINUED from July 27, 2016. Ms. Peterson stated that on the minutes from April 13, 2016 there was a typo. This typo was corrected to read, “Wants to make it very clear”. Mr. Uitti made a motion to approve the minutes from April 13, 2016. Ms. Mastria seconded the motion. The vote was unanimous. Ms. Peterson made a motion to the minutes from April 27, 2016. Mr. Uitti seconded the motion. The vote was unanimous. Mr. Uitti made a motion to approve the minutes from May 11, 2016. Mr. Barlow seconded the motion. Ms. Mastria voted in favor, and Ms. Peterson abstained. No action was taken on the minutes from May 16, 2016.**

**16. APPROVE THE MINUTES – From the meeting dated July 27, 2016. No action was taken at this time.**

**Mr. Barlow made a motion to adjourn the meeting. Mr. Uitti seconded the motion. It was a unanimous vote and the meeting adjourned at 9:08 PM.**

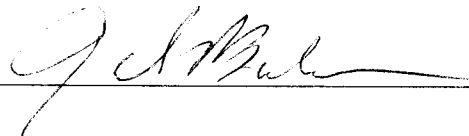
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Typed by Jamie Butler, Health Inspector

Kathleen Peterson

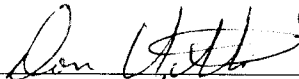


Stanley Andrews

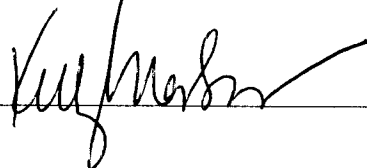
Galon Barlow



Don Uitti



Kelly Mastria –



cc Board of Selectmen/Town Clerk