



Terri A. Guarino
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TOWN OF BOURNE BOARD OF HEALTH

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Hybrid Meeting MINUTES June 28, 2023

Meeting was called to order at 05:33 P.M.

This meeting was televised and recorded by Bourne Community TV for replay.

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TOWN CLERK BOURNE

1. Attendance.

Members in Attendance: William Meier (in person), Bob Collett (Zoom), William Doherty (in person), Don Uitti (Zoom phone call, 6:05pm)

Staff in Attendance: Terri Guarino (in person), Stacey Burgess (in person), Kaitlyn Shea (Zoom), Deon Wills (Zoom)

Miss Guarino states that she did plan to present the board with an update, but that she was asked to remove that from the agenda, so that they will be discussing it at a later date. She also highlights that there were items removed from the agenda that will also be discussed at a future meeting.

Mr. Collett asks what information Miss Guarino is referring to and looks to confirmation regarding if there will be discussion of item #3, the MassDEP regulations. Miss Guarino states MassDEP regulations are the only item on the agenda. They were going to reorganize the board and set scheduling and new agenda items, but that those have been removed.

2. Discussion on newly promulgated MassDEP regulations: Title 5, State Environmental Code: 310 CMR 15.00, and Watershed Permit Regulations: 314 CMR 21.00. Effective date: July 7, 2023.

Mr. Doherty begins with some questions and concerns. He is primarily concerned with identifying and defining new policies, review and updates of regulations, updates to the procedures of the department, how the workload will be affected, and what the work plan will be for the office. He is worried about the staffing requirements, and also with how updated the information that Barnstable County provided is. His major concern is to protect the citizens and to make sure that their needs align with the new regulations.

Miss Guarino presents the new Title 5 regulations. See attached Exhibit A.

Mr. Doherty questioned if it would be appropriate to potentially have a workshop to address and discuss these issues more in depth. Miss Guarino states that she thinks that would be helpful so that they can exclusively go over how this information can be updated and what the Board plans to do. She states that they really want to mitigate the burden of these regulations by updating the local regulations so that rather than contrasting, they can supplement the MassDEP regulations.

Mr. Doherty asked how the Board can best assist in supporting this new workload and Miss Guarino states that she wants to make sure that they can stick to a consistent schedule and have an organized board so that they can work together and keep up with the workload. Miss Guarino emphasizes that it is critical for the board to get organized so

that they can issue appointments for committees so that they can delegate the work for these new regulations more effectively. She emphasizes that they cannot prioritize agenda items until then.

Mr. Meier states that he thinks a workshop will help tremendously, and that it will allow them to familiarize themselves with the new changes more effectively.

Mr. Collett questions if the MassDEP would be able to have more personal involvement, and if they would be able to collaborate on one of the workshops. He also highlights that the Megansett watershed is shared with Falmouth, so it may be helpful to mirror their plans and see what their intentions with their local regulations are. Miss Guarino states that Falmouth is doing a conventional control approach with sewer in the town, so that they can handle the discharge. Miss Guarino states that with Bourne's portion, the nitrogen reduction is pretty minimal.

Mr. Doherty questioned if they are doing culvert expansion. Miss Guarino states that she is unsure and that it was not included in any of the plans. She explains that it is included in the Alternatives Analysis with Environmental Partners.

Mr. Meier questions if this will affect any setback regulations. Miss Guarino stated that the setback regulations are determined by the local Board of Health, so to her knowledge there will be no effect. She states that they also did not prioritize any specific areas of the watershed or any other contaminants of concern. She explains that if there is a concern over those, then the Board can attempt to address it.

Mr. Collett questions the fundamental differences between watershed permits and the alternative. Miss Guarino explains that if a municipality chooses to not file with MassDEP, then existing septic systems will need to be upgraded within 5 years, meaning they would have 7 years from July 7th.

Mr. Doherty questions the involvement of the Conservation Commission. Miss Guarino states that she is not familiar enough to speak about that.

Mr. Collett questions how a declaration of a watershed permit would affect the community. Miss Guarino states that the watershed permit would have to be specific to a level of Comprehensive Wastewater Management Planning, so that prior to the regulations, they would have to go through an approval plan with MassDEP. She states that the watershed permit would indicate what the town intends to do to remove the nitrogen for the watershed. She states that it is a complicated process and that she believes that there would have to be a consultant to aid them. She explains that the community has more flexibility with the Watershed permit for what they intend to do to decrease nitrogen. Mr. Collett questioned what other departments would be involved in the process and would complement the efforts of the Board. Miss Guarino explained that the Wastewater Advisory Committee would collaborate the most, and that they are appointed through the Board of Sewer Commissioners and once there is a Board of Health representative there will be collaborative meetings. Mr. Collett questions how Conservation would be involved. Miss Guarino said that it would be up to their discretion or if there are specific projects that would impact them and their jurisdictional boundaries.

Mr. Doherty questions if the Wastewater Advisory Committee has been in touch with Miss Guarino. She explains that she has a spot on the committee as the Health Agent, and that there is a separate Board of Health representative. She states that there has not been any recent contact or any recent meetings. Mr. Doherty states that he thinks that they should prioritize that group meeting so that they can get the ball rolling. Mr. Doherty also emphasizes that he would be interested in serving as the representative. He emphasizes how we live in a beautiful area and that he, as well as the Board, should prioritize keeping it that way.

Mr. Meier states that they cannot elect or appoint anyone today, but that they can handle that at a later date. Miss Guarino confirms, and states that that would be the next step. Mr. Meier states that Miss Guarino gave them the information for which they should review, so that the Board should "do their homework" so that they can best understand the new regulations and what they will need to do to best meet those new needs.

Miss Guarino added that the Cape and Islands Health Agents Coalition did reach out to MassDEP to come and speak to them, and that they were informed that they can do that around September but that there is no final answer. She emphasizes that the Health Agents will be greatly affected by these changes since they are the ones who are handling the permits, so it will be essential to figure out the confusing components of the new regulations. Mr. Doherty states that he thinks that the board should understand their role in procedures and get the job done.

Mr. Uitti then joined the call at 6:13 via Zoom after struggling with technological issues and explained that he had entered the Zoom around 6:00pm. He states that he will review the meeting afterwards.

Miss Guarino states that she will be sharing the information presented with the Board and on the town website.

Miss Guarino added on that the most common question that will be asked of them is regarding people's placement within a watershed and if their property falls within a Nitrogen Resource Area or a Nitrogen Sensitive Area and that there will be a map provided on the website. Mr. Doherty asks if there is information from the Cape Cod Commission regarding any flyovers so that they can view vegetation and a map of the areas in question. Miss Guarino explains that that is a good point but that they do not have that information.

3. Adjourn.

Mr. Meier, as a point of personal privilege, states that he has concerns that they cannot discuss or debate at this time, and when that is done, they cannot debate or comment on what he says. He states that they need a permanent agenda item where the Board can discuss or ask questions as needed. He expresses concern with the acting chair and the amendments of recent agendas, and the elimination of Board business which could be acted on in the acting chair's absence, because they are not providing justice to the town because they are not covering what is needed.

Mr. Doherty makes a motion to adjourn. Mr. Collett seconded the motion. Roll Call Vote: Mr. Doherty-yes, Mr. Collett-yes, Mr. Meier-yes, Mr. Uitti-yes. All were in favor, and the motion passed unanimously.

Adjourned at 6:17pm.

Taped by: Terri Guarino, Health Agent
Typed by: Viveca Stucke, Recording Secretary
Edited by: Stacey Burgess, Administrative Assistant



Exhibit A

Town of Bourne Health Department

June 28, 2023



MassDEP announced the promulgation of [314 CMR 21.000](#), Watershed Permit Regulations, and amendments to [Title 5: 310 CMR 15.000](#).

This initiative will automatically designate ~30 watersheds on Cape Cod that have a nitrogen TMDL as Nitrogen Sensitive Areas when the regulations become effective on July 7, 2023.

Communities will have up to a two-year application period to choose whether to file with MassDEP a Notice of Intent to apply for a Watershed Permit, request a De Minimis Nitrogen Load Exemption, or to submit a request for a Watershed Permit.

The new requirement that existing septic systems in automatically designated nitrogen resource area nitrogen sensitive areas be upgraded within five years to Best Available Nitrogen Removal Technology does not start running until the end of this application period.

Property owners in Nitrogen Sensitive Areas may have to add nitrogen removal to their Title 5 system by July 7, 2030 if their community does not file any of the aforementioned applications exempting them from this requirement.

Automatically Designated [Nitrogen Resource Area](#) Nitrogen Sensitive Areas* in the Town of Bourne as of July 7, 2023:

1. [Megansett- Squeteague Harbor Estuarine System](#) (*shared with Falmouth, MA*)
2. [Phinneys Harbor, Eel Pond, and Back River System](#)

*For Cape Cod watersheds that receive a TMDL after July 7, 2023, a Nitrogen Sensitive Area designation will automatically become effective on the date EPA approves the TMDL. MassDEP may designate watersheds on Cape Cod that do not have a TMDL but have nitrogen impacts demonstrated in a Massachusetts Estuary Project Report or other Scientific Evaluation accepted by the Department through a public process under 310 CMR 15.214(1)(b).

Existing Nitrogen Reducing Septic Systems in Bourne, MA

The majority of existing nitrogen reducing systems were obligated to be installed by local, regional, or state regulations i.e. are within 150 ft. of a water resource area, were required by the Cape Cod Commission as a part of a subdivision approval, or are located within existing Nitrogen Sensitive Areas for public or private drinking water protection.

- ✓ 222 MassDEP approved I/A systems* have been installed in Bourne according to Barnstable County Department of Health & Environment.
- ✓ Greater than 90% of these systems tracked in the database are residential systems.
- ✓ Current standard for [Total Nitrogen](#) is ≤ 19 mg/l per existing Board of Health Regulation.

*Passing systems with previously approved nitrogen reduction technology which were installed between July 7, 2013 and the effective date of these regulations, will not be required to be upgraded to subsequently better technology unless said system has failed or is otherwise required to be upgraded by the board of health.

Town involvement with Title 5 Septic Systems & Regulation Changes

The Town's Comprehensive Wastewater Management Planning efforts have been steadily underway. Environmental Partners completed the [Alternatives Analysis](#) in November of 2022 after many public meetings. The Select Board/ Board of Sewer Commissioners has been engaged in the various aspects of wastewater management planning and issued a comment letter to MassDEP on the proposed regulations on January 24, 2023.

Local boards of health have the primary obligation to enforce regulations relative to on-site sewage disposal systems in Massachusetts. It is the responsibility of the elected Board members to discuss and vote on Title 5 variance and waiver requests, and to promulgate and amend local regulations. All of the Board's regulations relative to septic systems are available online at www.townofbourne.com/health

The promulgation of these regulations will have a significant impact to communities' past and future planning efforts, and we hope more guidance and information will be forthcoming from the State Department of Environmental Protection.