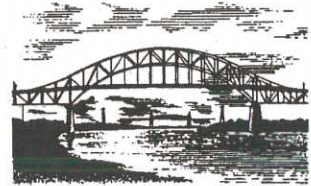


TOWN OF BOURNE BOARD OF HEALTH

24 Perry Avenue
Buzzards Bay, MA 02532
Phone (508) 759-0600 x 1513
Fax (508) 759-0679



Terri Guarino
Health Agent

RECEIVED
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TOWN CLERK BOURNE

MINUTES July 13, 2016

Members in attendance: Kathy Peterson, Chairperson; Stanley Andrews, Vice-Chairperson; Galon Barlow and Kelly Mastria

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

MEETING WAS CALLED TO ORDER AT 7:00pm

- 1. 124 MEGANSETT RD – Michael Borselli of Falmouth Engineering for Thomas Chisholm – Request variance from Title 5 of the State Environmental Code for new construction. Discussion and possible vote to approve proposed septic system with a 5 foot variance from Megansett Road or 5 foot variance from 150 foot Setback Regulation to a water resource area.** – Ms. Peterson stated that there is a letter submitted by the new owners stating that Mr. Boselli is still on board for this project. Ms. Peterson stated that she would rather not hear this because there are new owners to this property. The property just passed into new ownership on June 30, 2016. Ms. Peterson asked if there is anything from the new owners stating they are in support of what Mr. Chisholm wanted. Mr. Borselli stated that this is actually the new owners plan. Ms. Peterson submitted a copy of the deed for the record. Mr. Borselli stated that he is proposing to tear down a small cottage and build a new home away from the resource area. It is proposed to remove the existing cesspool which is 25 feet from the saltmarsh. The new system will be as far away as possible from the saltmarsh. It will be just over 150 feet from the corner of the lot. The variance he is requesting is 5 feet from the property line. This property was determined as a fragmental coastal bank. It barely meets the requirement of a slope of a coastal bank. This project has been through Conservation and they are in agreement that it is not within consideration of the wetlands protection act. This is an existing 4 bedroom home and the proposal is for another 4 bedroom home so the flow will remain the same. Ms. Guarino stated that one word that she slightly modified on the agenda is what is being requested here is a 5 foot variance to the front property line. The other alternative is a 5 foot variance from the local Board of Health regulation. Ms. Guarino stated that she and the engineer have already discussed this. They were not sure that the system could be outside of the 150 foot buffer. It can be but it's within 5 feet of the property line

where Title 5 requires 10 feet. The reason why they require 10 feet is really for maintenance of the road ways. In this case, the road layout probably is an additional 10 feet from the actual property line. She just wanted this pointed out to the board members. Ms. Guarino stated that the septic system would be 25 feet from the actual edge of Megansett Road. Mr. Andrews asked Ms. Guarino if the 5 foot variance is for the soil absorption system and the reserve area. Ms. Guarino stated correct. Mr. Borselli stated he is proposing a 5 foot variance from the property line. Ms. Peterson asked if the letter that was submitted reflects what Mr. Borselli is looking for. Mr. Borselli stated yes. Ms. Guarino stated that it was her recommendation to do so because it's kind of unusual to have just a 5 foot setback to the property line. Mr. Minuado from 130 Megansett Road. He has looked at the plans. He has spoken with the owner and Mr. Borselli and has absolutely no problem with this project and is 100% in favor of it. **Mr. Andrews made a motion to grant a 5 foot variance to the soil absorption system to the property line and a 5 foot variance from the reserve area to the property line for 124 Megansett Road. Reference plans received by the office on June 15, 2016. Architecturals received June 15, 2016 drawn. Mr. Barlow seconded the motion. It was unanimous.**

2. **123 WATERHOUSE RD – Jack Landers Cauley, P.E. on behalf of Franco Raponi – Discuss minor modification of the Paesano Office Building. Request continued support and approval of the “Wastewater system Operations, Management, and Compliance Agreement” (OMCA) as required by the Cape Cod Commission. – Mr.** Landers Cauley stated they are here for 2 reasons. The first is, it's an I/A component system and the Board of Health has a review process when there is an I/A system. Second is the Cape Cod Commission requested that the applicant obtain an affirmation or an agreement with the Board of Health regarding the wastewater system, maintenance and operation. Mr. Landers Cauley stated that the proposal is utilize the second floor of the existing building and build a 1500 square foot professional office which already underway. As part of that process, it was necessary to go before the Cape Cod Commission. Eliza Cox, Attorney for Franco Raponi was the spearhead for this process. The process was very complex and expensive. The final step is coming to the Board of Health and bring the members up to speed as to what is going on and to get an agreement in writing from the members showing their support. Mr. Landers Cauley stated that this is a state of the art technology. His goal is to have 5 parts per million effluent at the property line. It is a much better system then what exists there now. The system will be an Amphidrome system. Ms. Peterson stated that she has already looked at this and has not questions. Mr. Andrews asked if the document that was just put forward is conforming to the Board's policies on I/A. Ms. Guarino stated this project is slightly different in verbiage but the difference that the I/A regulation that the board has is for septic systems that are required by the Board of Health. This one would not be required locally. It can meet all of the parameters in Title 5. It is just that it's a commercial property which is subject to the regulations of the Cape Cod Commission who put this nitrogen loading limitation so that it had to meet the 5 parts per million.

Ms. Guarino stated that this is very similar to what we use when we require it for the 150 foot setback but it is slightly different. Mr. Andrews asked about the maintenance and testing. Ms. Guarino stated that it would need to be done by a licensed wastewater operator. Mr. Andrews stated that he is questioning it because item number 2 on the document submitted says monitoring by the owner or an operations contractor on the owners behalf. Mr. Landers Cauley stated that was correct. Ms. Cox stated that if you refer to 4.1 of the document it states they must identify the contracting party responsible for the maintenance of the system. Ms. Peterson stated that she has found with the Cape Cod Commission that they go down one road for the first 5 pages and then switch completely and double talk what they already talked about on the first 5 pages. Mr. Landers Cauley stated that through all the gloss they look and say what they really have here in the end is a good nitrogen package. How we get there is a little convoluted. Each time he files with the Cape Cod Commission, he always finds something new that they ask for. For example, they are requiring a generator for the system as a back-up source which he has never heard of until this project. Ms. Peterson asked why the maintenance will only be semi-annually. Ms. Cox answered, if you look at 2.5 of the document, it talks about the frequency for the first 6 months, it will be monthly then switch to quarterly and then after 3 years of quarterly it goes too semi-annually. This is consistent with DEP's approval is for this system. Ms. Peterson stated that she would like something put in that prior to going semi-annually, that the board reviews all the compliance checks and the results. Mr. Landers Cauley stated that he will be able to meet these standards very easily. The one thing with this type of waste stream is that it is very predictable. It's a Monday through Friday. It's not like a seasonal residence were there may be just 2 people in the winter but maybe 18 people in the summer. In that sense it will be a steady straight flow for the treatment perspective which is predictable. Ms. Peterson stated at 3.2 in the document pretty much handles all of that and she is comfortable with it. Ms. Guarino stated that 3.4 also mentions that any information will be provided orally to the Board of Health within 24 hours so it seems as though if there are any non-compliance issues they will be immediately reported and retesting will occur and reported pretty quickly. Mr. Andrews asked if this system will be going through the County system so we will get reports regularly. Mr. Landers Cauley stated that was correct. Ms. Peterson stated that they actually put another step stating that they must copy the plumbing inspector on this. **Mr. Andrews made a motion that the board write a letter of support for the approval of the wastewater system operations management in compliance agreement that was required by the Cape Cod Commission for the project at 123 Waterhouse Road.** Ms. Peterson asked Ms. Cox if that is what she wanted. Ms. Cox stated that she is asking the Board of Health agree to sign on as a signatory to this agreement. Ms. Peterson asked if Mr. Andrews would like to amend his motion. Mr. Andrews stated that he read it specifically as it is written in. **Mr. Barlow seconded he motion and stated that what is written here is what Ms. Cox wanted. Ms. Peterson re-iterated that the board wants to sign off on the agreement. Mr. Andrews stated correct. It was unanimous.**

3. **42 YEARLING RUN RD – Deborah Roberts, Owner – Discussion and possible vote to approve new horse stable license to renovate existing barn and keep horses at property. Existing fence to be used as paddock is 1 foot from property line. Requesting 14 foot variance from Board of Health Stable Regulation Setback of Paddock to Property line. – Mr. Andrews stated that the chairman will step off for a moment and he will step in as Chairman.** Mr. Roberts stated that the plan speaks for itself. The barn is an existing barn which is where the horse will be kept. There is an existing stockade fence all around the entire property. Mr. Roberts stated that he hired Canal Land Surveying to come up with a plan that would meet the Board of Health requirements and give the horse a sufficient area for grazing. The horse is a 21 year old horse. There is also a miniature horse. Neither animal will be seen from any abutting property. The abutters who received notification probably didn't realize a horse was here. Ms. Peterson stated that she has been on this board with things on Yearling Run Road and they notice everything which is a good thing. Mr. Roberts stated they are new to the neighborhood but if the board had any questions, he would be happy to answer them. Ms. Peterson asked if there were anyone in the audience for this item. Mr. Andrews asked what the existing barn is being used for now. Ms. Roberts stated there is a motorcycle, boat and other junk. The second floor right now, as told by the current owner, is being used as an apartment. Ms. Roberts stated she will be using the second floor as a craft room. She makes Christmas decorations and hats. Mr. Andrews stated that he sees on the plan what the stalls will look like but he does not see where they will be in the barn. Ms. Roberts explained to Mr. Andrews in detail where the stalls will be located. Mr. Andrews stated that there is an existing well in the barn in the back section. Mr. and Ms. Roberts stated that they were not aware of that. Mr. Andrews stated that it is an irrigation well in the back corner of the barn. Mr. Roberts stated that he thought the same thing when he found it but since then he has learned that is not the well. The irrigation system is located outside of the barn. Ms. Roberts stated that she thinks there is an irrigation well in between the driveway and the pool. Ms. Peterson asked if there is anyone living in the house right now. Ms. Roberts stated that the current owner is living here. Ms. Roberts stated that she is closing on this property on August 1, 2016. Ms. Peterson stated that a lot of things can happen between now and the closing. Mr. Barlow stated that it is tuff for the board to approve this were the Roberts' don't yet own the property. Ms. Peterson stated that if the board issues this permit today and the closing doesn't happen then this gives permission to whomever is living there to have horses. Ms. Peterson stated that until the Roberts take ownership of this property, they really don't have any rights to get permits for this property. Mr. Roberts stated that the current owner offered to allow then to bring their horse on the property today but she stated she would not because she has not obtained the proper permits yet. Ms. Roberts stated the she was hoping to be able to start so that at the closing Coco would be able to come home to the property that week. Ms. Roberts asked if the board could make the approval effective August 1, 2016. Mr. Barlow stated that not to someone that doesn't own the property. Mr. Roberts asked if it can be done subject to a certified copy from the registry of deeds that the title has been passed to them. Ms. Mastria asked if the current owner could

apply for the permit and then after August 1, 2016 the Roberts apply for the permit. Ms. Peterson stated that they can finish here tonight and answer questions from anyone in the audience but there will not be an actual permit issued until proof of ownership is proven with a copy of the deed. Mr. Barlow stated that the board has not yet seen a manure management plan. Ms. Roberts stated that she does not have one written but her management plan is to put all the manure in the garden. Mr. Andrews stated that part of the policy is a written manure management plan submitted to the office. Ms. Roberts stated that she is planning on purchasing a manure spreader that will hold 13 bushels. One horse will not create a lot of manure. They have already discussed the easement and being able to use it for a garden. She was told they can do whatever they want as long as it can be driven over. Ms. Peterson asked if Ms. Roberts understands the importance of a manure management plan especially if someone complains. Ms. Roberts stated that she does and she can certainly write one out right now and submit it for the file. Mr. Carlow is an abutter to this property. Mr. Carlow stated that when he first bought his property, he sort of inherited the pig farm that also abuts his property. Mr. Carlow stated that his concern with having horses now will be flies, the manure and everything else that comes with a horse. He is already getting hit on the left side with the pig farm and does not want any problems on the other side because of the horses. Ms. Roberts stated that she agrees with Mr. Carlow and she will keep a very clean stable. Ms. Peterson stated that there are some things the applicant will need to do. One is to determine where the well is located and make sure that it is not connected to any portable drinking water or anything. Second is the construction of the stalls to conform to the Board of Health regulations. Third, that a manure management plan is written and brought into the office and follows the Board of Health policies and regulations. The well is identified on the plot plan. **Mr. Andrews made a motion to grant the variance that the fence on the southwest side to be 1 foot off of the property line and that the fences for the paddock be maintained as secure proper fences for the animals.** Ms. Guarino stated that there are no specific setbacks to a well from a horse stable in our well regulation or the stable regulation. Is there a specific criteria if it were to be within a certain, to move the pasture, or is it just for the boards' identification? Mr. Andrews stated that his concern is having animals on top of a well if it is drinking water. Mr. Andrews just wants to make sure it is irrigation only and not drinking water. **Ms. Mastria seconded the motion. Approval is contingent upon the sale going through and nothing is to be signed until the office has the deed, the manure management plan to the board and once that goes through a stable license can be issued. It was unanimous.**

4. **4 CENTRAL BLVD – David MacLean for Jeffrey and Pamela Siefried**
 - **Request variance 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 for portable 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 stated that she is stepping off for this item. Mr. MacLean stated that this is a very unique situation. He has been working with his clients, the Siefried's for approximately 2 years. They purchased the property in 2010. Shortly thereafter they discovered that they were having a terrible problem with their Title 5 septic system which when they purchased the house was supposed to be ok. The existing residence is a pre-existing 2 family house with 3 bedrooms. It has basically a living area on both levels. The entire building is in the flood plain and below the flood plain. The first floor elevation is right at the flood plain. The lower level apartment is below the flood plain. His clients would like to design a 3 bedroom house that will sit on the existing foundation but now all the habitable floor spaces are above the flood plain. Getting back to the problem which seems to go back to the previous owners. When the Siefried's purchased the property, they were not aware of the condition of the septic system. When the system began backing up, they did everything they possibly could to resolve the problem. It came to the point where they needed to dig up the system to find out what was going wrong. Once they opened the system, they discovered a huge boulder in the system along with 80 tons of undesirable soil. The entire system was ripped out and a new system was put in 2010. This is a very tight sight. This is a two family house that will be converted to a one family house. This project has gone through Conservation and received a unanimous approval. All of the indications that are discussed in the letter that he just received has to do with what was built by the prior owner. The existing site plan and the proposed site plan is far less than what currently exists. All of the out buildings have been removed. The impervious patios are being removed. Mr. MacLean stated that his argument is that he has this 3 bedroom 2 family house that is pre-existing 2 kitchens. This is completely illegal relative to current zoning and flood plain regulations. He is creating a new 3-bedroom house which will be the same square footage but it is all above the flood plain. The system has a pump chamber. It's been working perfectly since 2010 when it was repaired. Mr. MacLean stated that his professional opinion is that what he has created has far less of an impact then what currently exists. Mr. MacLean is requesting to continue using the upgraded septic system that was replaced in the last 5 years for the proposed renovations to the dwelling. Ms. Guarino stated that it is unfortunate that there was construction done without permits and very large expansions done to that property back in the 1990s but there are a number of Title 5 variances and the nitrogen loading on the property is 11 parts per million which is more than double than 5 which is ideal. Ms. Guarino stated that what the board would require for any other new construction is require that they have an alternative septic system. In this situation they could add a fabricated treatment unit, update the existing 1000 gallon tank with a 1500 gallon tank. Lots of those are retro fitted into the existing tank. They can still have the same pressure distribution field. That would be one way to do it and this is what Ms. Guarino recommends. Mr. Barlow stated that in the past the board has required the upgrade. Mr. Barlow stated that he would not recommend a specific one. As long as replacing the tank falls within the boards guidelines then everything looks good. Almost everyone who lives around Eel's Pond to do nitrogen removal. Mr. MacLean stated that he understands what Mr. Barlow is saying but his clients inherited this

problem so what he is creating is better than what exists. It is no bigger and less of an impact than the existing house. Mr. Barlow stated that the board doesn't get many opportunities to get nitrogen removal and he may never have another shot at this property. The board needs to take every opportunity it can to upgrade these coastal properties. Mr. Andrews stated that the variance that was given in 1998 was 68 feet from the 150 foot setback which makes over 75 feet which the board has traditionally only allowed up to a 75 foot variances. Ms. Guarino stated that the plans in 1998 was not designed by a certified land surveyor so the distance looks approximate. The repair from 2010 was from the identical plan from 1997. Mr. MacLean stated that the project was overseen by Mr. Bunker of BSS Design and he is a certified land surveyor. Ms. Guarino stated that BSS Design used the exact same plan from 1997 in 2010 to repair the system. Mr. MacLean stated that they did a few other things too like installed a pump chamber. Everything they did is on that list. **Mr. Barlow made a motion to continue this item until the next meeting to allow Mr. Bunker the opportunity to revise this plan to include an alternative denitrification system.** Mr. MacLean asked Ms. Guarino if there were any additional paperwork that he needs to give to Mr. Bunker. Ms. Guarino stated that the nitrogen calculation will reflect a reduction by implementing the I/A technology so just an addition sheet of the nitrogen calculation as well. Mr. MacLean stated that Mr. Bunker should be aware of that so if there are any questions he will call Ms. Guarino. **Ms. Mastria seconded the motion. It was unanimous.** Mr. Barlow stated that he did say the next meeting but he is unsure when the next meeting will be. Mr. MacLean asked that he be notified by Ms. Guarino when she knows when the next meeting will be. Ms. Guarino answered yes.

Mr. Andrews suggested to skip over items 5 and 6 until Ms. Peterson returns.

The board returned to item 5 after Items 7, 8, 9 and 10 were discussed and voted on.

5. ORGANIZATION OF THE BOARD MEMBERS – CONTINUED from the meeting dated June 22, 2016 – Discuss and possible vote. –

Ms. Peterson stated that she will now open nominations. Mr. Barlow stated that he suggested to Ms. Mastria that if she really didn't want to sit in the ISWM Working Group that he would go back on it as long as it was ok with her. Ms. Mastria stated that she is not in a position to sit in Chairman or the Vice-Chairmen's chair so she doesn't mind sitting on the ISWM Working Group. Mr. Andrews nominated Ms. Peterson as Chairman. Ms. Mastria seconded that nomination. Mr. Barlow stated that if Mr. Andrews would like to stay as Vice-Chairman that he would nominate him. Mr. Andrews stated he would like to stay as Vice-Chairman. Ms. Peterson stated that this item will close and the board has voted as such. **It was unanimous.**

6. TOBACCO REGULATION – Discuss and possible vote to amend Tobacco Regulations to include banning smoking at public beaches and other Town owned/operated recreational areas pursuant to

M.G.L. c.111 §131. Ms. Peterson stated that she read what Ms. Guarino wrote and felt she did a good job. The only thing she wants to make sure the board does not do is empower the person sitting on the beach to be able to go over to a person that is smoking and tell them to put the cigarette out. Whatever regulations that the board passes, there should be some sort of caveat that this does not empower the average person to take this upon themselves to try to stamp out smoking. Ms. Peterson stated that this will be a very hard regulation to enforce. Ms. Peterson stated that definitely public building, playgrounds and any public beach with a lifeguard should definitely have a sign stating no smoking. She added, baseball fields, Town Hall and any public building should not have smoking on the grounds or on the property. Ms. Peterson stated that if it is going to be at the beach then it will be every public building or public area throughout the town. If you are going to smoke, you will need to go out into the street. Ms. Mastria stated that she completely agrees. Ms. Mastria stated that her thoughts are about enforcement. What type of signage will there be. Ms. Peterson asked who would be responsible for the signs. Mr. Meier, Board of Selectmen, stated that the DPW will make the signs. Ms. Guarino stated it will certainly going to be challenging to enforce this however she does still would like to think that people would want to do the right thing so if people are aware and if there is public outreach and education and signage on the beach that this is a non-smoking area, they should be somewhat respectful and step off the beach if they want to smoke. Ms. Guarino stated that if it were to be an issue that required a tremendous amount of enforcement, if there is a lack of compliance, she can arrange to have more enforcement. It's a \$300.00 fine. Ms. Mastria stated that the fine amount should be on the sign. Ms. Guarino stated that if the town were to observe a tremendous amount of non-compliance she would be hopeful that the town would support the regulation and support a means of offering more enforcement. Mr. Andrews stated that under the regulations now, enforcement of this regulation is subject to the Bourne Board of Health or its designated agents. Any person who desires to register a complaint pursuant to the regulation may do so by contacting the office. Right now it comes to the office and the office, and the Board of Health are the agents. Mr. Barlow stated that there is going to be a lot of controversy with E-Cigarettes, vapor and medicinal marijuana. He doesn't have a problem with banning smoking but those who do will be coming forward asking the board why they are picking on them. It may have to be specified that cigarettes and cigars are banned. Ms. Guarino stated that was a very good point with the e-cigs and the vapors because right above section O of the regulations, she highlighted that portion that states the use of e-cigs is prohibited per MGL, Chapter 270 § 22 which is the Smoke Free Workplace Law. The law doesn't specify or differentiate between what types of smoke. Ms. Peterson stated all kinds of smoke. Ms. Mastria stated that to her, the regulation means all types of smoking. Ms. Peterson stated that they will also have to include properties, all public property. Mr. Andrews stated all town owned and controlled town property. Mr. Barlow stated that mean all the parks, all the highways, roads any place. Mr. Blanton stated that he would like to point out in terms of type of smoking the board may want to encumber recreational marijuana into the regulation. Ms. Peterson stated that was something she wanted to discuss at the end of the

meeting. Ms. Peterson stated that sometime in the fall she would like to discuss marijuana regulations. This can become legal at any moment and she wants a regulation in place. Ms. Peterson stated that she wants something on record so that if it gets on the ballot and the Supreme Court says they will allow it to be on the ballot, she believes it will pass. Ms. Peterson asked who gets to say what will be on the signs. Mr. Meier stated the Town Administrator. Mr. Andrews stated that not if the Board of Health passes a regulation then it will be the boards' verbiage. Ms. Guarino stated that she agreed. One thing like playgrounds, recreational areas and beaches are just specific outdoor areas. If there's inclusion, as discussed of including other town owned properties, in her opinion that is completely separate. There should be more meetings and discussion before banning on all town owned properties. It should be posted as this regulation could include Town Hall, the Police Station, schools, the Marina's. Mr. Andrews stated that these are access areas that the public uses all the time and the public doesn't need to be exposed to that. It's no different whether you are standing in the parking lot at the community building or sitting on the beach, it's still a public gathering area or at the ballfield in the back. Ms. Guarino stated that there may be more privacy in that area for example when she first started in college there was a setback to any doorway on campus so you had to be 25 feet from any doorway entrance and then that changed to 50 feet. Now it's a smoke free campus. It's kind of like taking baby steps. Ms. Peterson stated that down at the Registry or the Court House buildings you can't be anywhere near front of the building. Smokers used to go around the back but that is no longer allowed. They have to actually have to smoke in a designated smoking area. Ms. Peterson stated that for this meeting they should stick with schools, parks and beaches. Ms. Mastria asked if marinas falls under a recreational area. Mr. Barlow stated that the town rents out the moorings at the marinas. Those people pay for their spot. Ms. Peterson stated that the Board of Health can restrict whether they can smoke. Mr. Barlow stated that you really can't and he is certainly not going to vote for it. Ms. Guarino stated that this should be discussed to the specific marinas. Reach out to them and ask for their thoughts. They are familiar with their specific fuel stations that they have there. Mr. Andrews stated that there are set regulations set by the fire marshal's code of distance of smoking from a gas dispensing device. Ms. Peterson stated to drop some verbiage here this evening for the beaches, the parks, the recreations. Get those signs. Get those approved and then at the next Board of Health meeting they will pick up where they have left off with public buildings that the town owns and the property. Mr. Andrews asked why they can't pick that up know. It's pretty simple. Mr. Barlow stated that the trouble is they are looking for more....A lot of this stuff that the town owns.... It's going to be very difficult to enforce. For a perfect example, the historic center, the old library, people park there to go to the canal and go fishing. Some smoke. They are strangers who don't live here. Ms. Peterson stated that it doesn't take anything to put a sign on. Ms. Mastria stated that they need to start somewhere. Like Ms. Guarino stated, baby steps to get to where they want to be. Ms. Peterson stated to post a sign stating No Smoking, \$300.00 Fine per Order of the Board of Health. Mr. Blanton stated that the Board of Health is taking an excellent first step in creating a regulation and then

putting people on notice by posting a sign so that the people know what the regulation is. Ms. Peterson stated that the smokers, they need to find a space and put an ashtray there. The ones that are smokeless so you can't see the cigarettes and have them away from the doors. Ms. Peterson stated specifically the ashtray right outside the side entrance door. She has never liked that one out there. There are the tall ones that the town should buy. There are people that smoke. You can't get away from it. Mr. Blanton stated that this is something that the town needs to consider. Mr. Andrews stated that if you ban it from a town property, you don't have to expect that stuff. Put up the signs. Mr. Blanton stated that it probably does speak to the idea that ... because there are people who do smoke responsibly and they would want some sort of designated area for smokers. Mr. Andrews stated that one end of the beach will be smoking and the other end no smoking. Ms. Peterson stated that no, not the beaches. They are talking about where workers are. It just doesn't need to be near a doorway where people are coming in and out. That will be up to Tom Guerino to find a spot where smokers in his building can go. It's done everywhere now. Every place has a smoking area. Ms. Guarino stated that she feels like this conversation tonight has gone onto this level of no smoking on public property grounds which she really wasn't prepared to discuss. Ms. Guarino stated that she would be extremely uncomfortable if tomorrow there is a sign posted which states no smoking \$300.00 fine to her colleagues, who she works with every day, who were not aware of this regulation. Ms. Guarino stated that there are quite a few smokers who work at Town Hall and within the town and that encompasses these public buildings. They all do smoke responsibly. Ms. Guarino stated that it would be extremely uncomfortable to walk up to someone tomorrow and say oops, you can't smoke here and I might have to write you a ticket. Ms. Guarino stated that this conversation was supposed to be more like outdoor areas. The enclosed areas like the beaches and playgrounds were people who smoke are littering. Whether or not there is not a specific designated smoking area, these people that have worked here for a while and have their own area that they smoke in. Ms. Guarino stated that she is completely uncomfortable with it. Ms. Peterson stated that she is uncomfortable with people smoking by any doorway. If baby steps is to move it away from doorways then move it away from doorways. Mr. Barlow stated that tonight they should just go with beaches, parks and recognized ballfields. Mr. Andrews stated to added, and recreational facilities. Mr. Barlow stated he wouldn't add recreational facilities right now. Ms. Peterson stated that at the next meeting the board should discuss public buildings because you can't do for one that you can't do for another. Ms. Guarino stated that what she recommends is where the town owns these properties, they need some mitigation. These signs can be designed and request that they are made but to have them in adequate location it will be a process. It's going to involve DPW and Facilities Maintenance Department to get it set up. Mr. Andrews stated that for the signs it will be the DPW Sign Shop. Ms. Guarino stated that the DPW will manufacturer them and probably install them as well. Mr. Andrews stated it will not be Facilities at all it will be DPW. Ms. Guarino stated that it's equally important to have cigarette disposal units to help with rubbish from cigarettes. Ms. Guarino stated that she would like to implement some type of program to get some of those. Mr. Barlow

stated if they are going to issue a \$300.00 fine we will be able to buy them. Mr. Andrews stated that the collection of the \$300.00 fines should be able to be used in remediation instead of going into the General Fund. Ms. Peterson stated that she would like to make it clear that she did say that there should be an area for people to smoke. You can't tell people that are visiting our beaches that they can't smoke but then they visit the Town Hall and walk through a cloud of smoke. You just can't have it both ways. The board can vote on the beaches tonight and the recreational areas and schools but at the next meeting the board does have to discuss how they will move forward and take it away from the buildings. Ms. Mastria stated that the board should send some kind of notification to the residents to help make them aware that on September 1, 2016 there will be no more smoking outside of a doorway and that you need to be 25 feet or 50 feet away from an entrance to a building. Ms. Mastria stated that she agrees with Ms. Guarino that it would be very uncomfortable to have to write a ticket to co-workers. Mr. Meier stated that if an employee of the town went to their own car to smoke it's not doing anyone any harm. They are not polluting the outside. Mr. Barlow stated that the conversation is now going beyond what is allowed on the agenda. The agenda item is worded as The Board of Health to discuss and possible vote to amend Tobacco Regulations to include banning smoking at public beaches and other Town owned/operated recreational areas. That's where we are. We are not at doorways. The next time we can do it. Ms. Peterson stated that this is a problem because there is a tennis court at town hall which is considered a recreational area. Mr. Blanton stated that he agrees with Ms. Mastria. Giving plenty of notice a head of time to properly prevent the kinds of issues that Ms. Guarino was expressing concerns about. Mr. Blanton stated that this enforcement can't happen tomorrow. It's going to take a little time to implement this. Ms. Peterson stated that she will have a discussion with DPW Superintendent, George Sala to possibly get the beach signs faster. She would like to see the beach signs go up very soon and start with that. Mr. Andrews stated to post the ballfields too. Finish up with this and go on to the next. Ms. Peterson stated there are 5 or 6 beaches. Mr. Blanton stated that perhaps the Board of Health would like to communicate through the Town Administrator so this all goes through the proper channels to make sure this happens correctly. Ms. Mastria asked if just the beaches with lifeguards will be posted. Mr. Andrews answered no, all beaches. Ms. Guarino stated that one thing she would like to put in there is beaches licensed so there designated swimming areas that the water quality is tested on because someone's backyard or in between beach easements could be considered. Mr. Andrews stated that it could be public beaches. Mr. Barlow stated the public beaches like Patuisset, Monument Beach, and Barlows Landing etc. Mr. Andrews stated they are not talking about private beaches. Ms. Guarino stated that she wonders if there are public areas that are a beach but the town doesn't designate them as a swimming area. Ms. Peterson stated to designate them right here, right now. Ms. Mastria stated for example, Mashnee Island Dyke Beach. Ms. Guarino stated that is not designated as a bathing beach. Mr. Barlow stated that there is a lot of area that is recreational shell fish access and beach access that we really don't want to do right now. Just the swimming beaches. Ms. Peterson stated that can be down the road to get the others. Ms. Peterson

stated that her proposal would be to start with the bathing beaches with public access and/or parking access. Ms. Guarino stated that will exclude the semi-public beaches. Mr. Barlow stated that it will include some of the ponds that have beaches. Ms. Guarino stated that was correct. Ms. Peterson stated that for this evening what the board needs to do is adopt that the Board of Health is not going to allow smoking on public bathing access parking beaches. Mr. Andrews asked how many beaches are out on Taylors Point. Mr. Meier stated that there are at least 3. Mr. Andrews stated that there are 3 public beaches right there that should be posted. Ms. Guarino stated that those are not bathing beaches. Mr. Andrews stated that they are. Mr. Barlow stated that at least one of them is. Ms. Guarino stated that none of those beaches are water quality tested so they are not public bathing beaches. Mr. Barlow suggested the wording to be the real productive beaches. Ms. Peterson stated that she feels the board is very comfortable with the beaches they are talking about. Mr. Andrews stated that he feels they will be limiting it too small. Ms. Peterson stated that they are going to expand it at the next meeting. Ms. Peterson stated that the board needs to adopt the changes to the smoking regulation. Ms. Mastria stated that section O the word should be changed to all smoking. So the wording will read All Smoking Shall Be Prohibited. That will encompass e-cigarettes also. Mr. Andrews stated that to change to all town owned or operated recreational areas. Mr. Barlow stated to get the signs up at the beaches first to get a feel of how it is going to work. **Mr. Andrews made a motion under item O of our regulations restricting sale and use of tobacco products he wishes to amend the end of O by adding all smoking shall also be prohibited at public bathing beaches licensed pursuant to Chapter 7 of the State Sanitary Code and Town owned or operated playgrounds and recreational areas. Mr. Barlow seconded the motion. It was unanimous.** Ms. Peterson asked to do the verbiage for the signs for the beaches to start. Mr. Andrews stated that this will not go into effect until it is posted in the paper. Ms. Guarino stated yes. Mr. Andrews stated that the board needs to put a posting out on this and typically how long after it is posted does it go into effect. Ms. Guarino stated that it is immediately upon publication. Ms. Peterson asked if it can be posted in the newspaper this week. Ms. Guarino stated yes. Ms. Peterson stated that the verbiage for the signs will say no smoking of any kind allowed per the Board of Health \$300.00 fine. Mr. Barlow stated that no smoking pretty much covers it. Mr. Andrews stated that the signs should say no smoking per Bourne Board of Health Regulations violations subject to \$300.00 fine. Mr. Andrews stated that the \$5,000.00 the Board of Health collected in fines last year should be taken out of the General Fund and used to pay for these new signs. Ms. Peterson agreed. Mr. Barlow stated that money has already been spent even before they got it. Mr. Blanton stated that they are not here to discuss the budget. Ms. Guarino stated that they should check with DPW to see if there is a certain amount of characters that would be allowed on the signs. Mr. Andrews stated that the DPW has the standard size. He has seen them in other communities and they use a certain font size for the non-smoking and then at the bottom in smaller print it would say per Bourne Board of Health subject to a fine of. Mr. Blanton stated he has also seen signs in Falmouth with similar wording. Ms. Guarino stated that in Barnstable it just says

Barnstable beaches are smoke free with a picture of two cigarettes crossed off. Ms. Mastria stated that putting the fine amount is going to be more deterring. Ms. Guarino stated that she agreed. Ms. Peterson stated that putting the fine on the sign is key.

7. **(Became Item #5) 68 MONUMENT AVE – Michael Steller, owner – Discussion and possible vote to issue fines for noncompliance with conditions of Title 5 variances and Bourne Board of health I/A Septic Regulations. Failure to maintain valid operation & maintenance contract and failure to conducted two required influent and effluent samples and four maintenance inspections for I/A septic system.** Ms. Guarino stated that she has touched base with the member of the board a few times on this situation and some other I/A systems. It is one regulation which as mentioned that we currently have that needs updating. Ms. Guarino stated that she has gone back and forth with the owner of this property, the wastewater operator and Barnstable County Department of Health and Environment. Ms. Guarino stated that she has obtained an Operation and Maintenance contract. The owner and the wastewater operator intends to continue testing. Mr. Andrews asked if this was one that was not complying with the board's wastewater technology policy. Ms. Guarino stated that this system was installed June 4, 2015. The owner had his contract but he didn't pay after the startup inspection so the wastewater operator wasn't going to continue to provide services. Ms. Guarino stated that the owner explained to her to relay to the board is that the system was installed in June 2015. It is a seasonal residence. It was only occupied for the month of August 2015 and then not again until July 4, 2016. Mr. Andrews asked if this has gone a whole year without a testing and maintenance contract. Ms. Guarino stated that he had a contract at some point but it was cancelled. The testing never happened. The wastewater operator has to start up the system. The contract must be in place before a permit is issued. They started up the system and the wastewater operator certified that. That was the only inspection conducted because he never received payment and he expressed that to Barnstable County. Mr. Andrews asked what the fine is that they can levy. Ms. Guarino stated it can be \$500.00. The owner did have some interesting points because he did start up that system at that time but it was really only used for a month. Mr. Andrews asked if he conform to what he was required to do in order to build the house and do the work that he did he was given certain requirements that he was very well aware of when he got his approval to conform to our I/A policies. Ms. Guarino stated that was true, the owner did not do that. Mr. Barlow stated that the owner didn't pay because he didn't want to spend the money so he should be fined the \$500.00. **Mr. Barlow made a motion to fine the owner \$500.00. Ms. Mastria seconded the motion with discussion. Ms. Mastria stated that although the owner will be fined \$500.00 for the first offense, when does a second offense take place and that amount should be \$1000.00. Ms. Guarino stated that there were two things that went wrong. He didn't have an operation and maintenance contract is the first violation. The second violation is that he did not do the required maintenance inspection and sampling. He has since obtained the contract in the past 3 weeks that the enforcement order went out. Now the only outstanding violation is that the inspections still have not been done which they intend to do as soon as possible because of the enforcement order. Mr. Barlow asked if the policy mentions the fact**

that the board can order the water to be shut off. Ms. Guarino stated that the board can't curtail water. Mr. Barlow stated that they can if it is a public health issue and the public health issue is that system is not operating properly. Ms. Guarino stated that it is not in the policy but she absolutely agrees that does need to be detailed. The owners and their representatives agree to all these things when they are granted variances. Ms. Guarino stated that she feels it is completely unacceptable but it certainly does need to be explicitly stated in the regulation that once you start up your septic system and a certificate of compliance is issued you are subject to these sampling and maintenance inspections regardless of how often you occupy the dwelling. Mr. Andrews stated that the policy is the same whether you are there a week or 52 weeks. That's the only reason they were allowed to do the project they wanted to do. Mr. Andrews stated that by the next meeting, the system still has not been tested then they will be subject to another fine. Ms. Mastria stated that is what she was trying to ask. It doesn't state in the regulation if after the first fine, is the second fine issued the next day, the next week or what. Mr. Andrews stated that the board as enforce daily fines. Ms. Mastria stated that she doesn't feel daily fines are necessary but definitely by the next meeting. Ms. Guarino stated that it does put a lot of strain on the wastewater operator. Mr. Andrews stated that they are in the business. The owner agreed to do this and did not do it and because he wasn't under contract to do it last year. The only reason he has a contract now is because of the enforcement letter about getting fined. Ms. Mastria asked if the board thought it appropriate to fine the owner \$500.00 and then \$1,000.00 if it's not rectified by the next meeting. Mr. Andrews stated that it should be put on the agenda for the next meeting and address it at that time. Ms. Guarino stated that she doesn't see any reason why they can't arrange to do the required inspection by the next meeting. It was unanimous.

- 8. NONCONFORMING SEPTIC SYSTEMS – Terri Guarino, Health Agent – Informational discussion on regulatory and inspection issues with nonconforming septic systems including cesspools. Discussion on current Board of Health Septic Regulations and possible amendments to consider at future meetings.** – Ms. Guarino stated that with the I/A septic systems and also just in general, non-conforming septic systems she would like to submit to the members of the board a couple documents. One is from the DEP which addresses frequently asked questions regarding Title 5. The other is specifically about Title 5 inspection. Ms. Guarino stated that the office gets questions every day regarding the information on these documents. There are some interesting ones referring to the second sheet it mentions a conditional pass. There is one question that is not addressed by the DEP that she feels should be addressed in the future and amended to the current regulation. Such as if a septic tank is underneath an impervious parking area or subject to vehicular traffic and not designed that way. The DEP does not address that. Sometimes it can be a garage slab that is on top of the system that is not H-20. The inspectors need clarity from the local Board of Health of what is expected when they run into this type of situation. Mr. Andrews requested a list of the different types of situations that Ms. Guarino is concerned with so when they have public

comment and discussion so they can form an opinion whether they want to modify the regulations. Ms. Guarino agreed. Ms. Guarino stated that she has started to work on this. Mr. Andrews stated that this should be put on the agenda as a separate dedicated meeting for only this one item for discussion and possible vote. Ms. Guarino stated that with cesspools, many towns in Barnstable County and throughout the Commonwealth, Title 5 does not establish any separate failure criteria for a cesspool. Someone can purchase a property that has a cesspool because it has a passing Title 5 inspection. If they try to do anything to that property that requires a building permit they typically will need to upgrade the current septic system. This is another big concern that she is hoping the board will be in favor of amending on the regulation. The inspectors look to the Board of Health and the Agent for guidance on these subjects because what they are required to do is any cesspool is supposed to be pumped at the time of inspection which isn't required for a conventional septic tank. A cesspool is so that its structural integrity can be assessed. Some cesspools are made of wood. She has seen some that are made of wood and brick. Some are acceptably deep which may be structurally sound however that is and interesting safety risk. Mr. Andrews asked what a good time would be to get this on an agenda. Ms. Guarino stated that anytime over the summer but she is trying to judge what the boards' opinion is on these non-conforming systems like cesspools in particular. Ms. Guarino asked the board is passing a local regulation having a cesspool as an automatic failure would be something the board would particularly want to focus on. Mr. Andrews stated that the board has focused on some of these items that were open holes in Title 5 that the board needs to tighten up on and Ms. Guarino has given the board a couple of things to think about but all the information needs to be gathered, invite the installers and engineers to that meeting, to give the pros and cons of what the board should be doing. **No action was taken at this time.**

9. **APPROVE THE MINUTES – CONTINUED from June 22, 2016 – April 13, 2016, April 27, 2016, May 11, 2016 and May 16, 2016 – No action taken at this time.**

10. **APPROVE THE MINUTES – from the meeting dated June 22, 2016 – No action taken at this time.**

Mr. Andrews made a motion to adjourn the meeting. Ms. Peterson seconded the motion. It was a unanimous vote and the meeting adjourned at 9:09 PM.

Taped and typed by Lisa Collett, Secretary

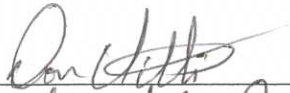
Kathleen Peterson _____

Stanley Andrews _____

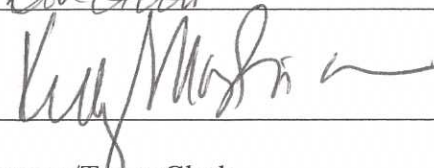
Galon Barlow _____

BOH minutes July 13, 2016

Don Uitti



Kelly Mastria –



cc Board of Selectmen/Town Clerk