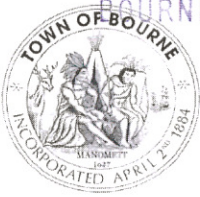


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TOWN CLERK'S OFFICE
BOURNE, MASS



Terri Guarino
Health Agent

**TOWN OF BOURNE
BOARD OF HEALTH
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**MINUTES
September 23, 2015**

Members in attendance: Kathy Peterson, Chairman; Stanley Andrews Vice-Chairman; Donald Uitti, Secretary, Galon Barlow and Kelly Mastria

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

- 1. 6 BOURNE BRIDGE APPROACH – CONTINUED from August 26, 2015 – Health Agent, Terri Guarino – Update, general discussion, and possible vote regarding Eastern Inn Motel -** Ms. Guarino stated that a few more inspections have been conducted and the office received a complaint. Additional violations are being found in the rooms that have not been inspected. There has been a major improvement but more attention needs to be given. A temporary license is still in effect. Attorney Schilling asked if the agent felt that Mr. Patel is proactive on working with the list of violations. Ms. Guarino said absolutely. Ms. Peterson asked if the smoke detectors have been installed. Mr. Patel stated that the smoke detectors were installed the same day. Ms. Peterson asked if the complaint is something that the board is already aware of. Ms. Guarino stated yes. Mr. Schilling asked for an extension until the 25th of October because he is going in for some surgery and will not be available to represent Mr. Patel. Ms. Peterson stated that she would like to extend the temporary license into November. A 30 day extension and return in front of the board for the first meeting in November. **Mr. Andrews made a motion to extend 30 additional days on the temporary license to November 25, 2015. Mr. Uitti seconded the motion. It was unanimous.**
- 2. 71-73 MAIN ST, BUZZARDS BAY – CONTINUED from August 26, 2015 – Discussion and possible vote regarding status of partially occupied unsafe structure –** Mr. Andrews has stepped off for this item. Kimberly Bielan present and representing this item. Ms. Guarino stated this is now being referred to as number 69 Main St. A demolition permit has been applied for so now looking to move forward as to when it will be demolished. Ms. Bielan stated that a contractor has been retained. Ms. Peterson asked for proof. Ms. Bielan did not have anything with her but would make sure something was submitted to the office in the morning. Ms. Bielan stated that she understands a little more

research is involved to be determined if this building is separate from the neighboring buildings. Ms. Peterson asked Deputy Pelonzi if the Fire Department is comfortable with the actions taken so far. Deputy Pelonzi stated that they were. Ms. Bielan stated that once the building permit is issued, she will contact the contractor to get a definite time frame for the demolition. **Ms. Peterson made a motion to start fining the owners of 71-73 Main St, Buzzards Bay, 300.00 per day starting September 14, 2015. Ms. Peterson added to her motion to CONTINUE this item until the next meeting. Mr. Uitti seconded the motion. Mr. Barlow abstained. Otherwise unanimous.**

3. **85-83 MAIN ST, BUZZARDS BAY – CONTINUED from August 26, 2015 – Discussion and possible vote regarding status of partially occupied unsafe structure.** – No one was present to represent this item for this discussion. Deputy Pelonzi and Building Inspector, Roger Laporte are present. M&L Associates have not completed any of the work they stated they would do. All work was supposed to be completed by September 2, 2015. Deputy Pelonzi stated that he has marked the building with a red X which indicates an unsafe structure. Doors have been secured so building is in a better situation than originally inspected. Mr. Laporte stated that this building is a disgrace and an embarrassment to the owner. While doing the inspections, there was standing water and junk everywhere. The building is now secured so there is no access into the building without the owner present. The roof was basically glued together with rubber. There are no building permits pulled to date. This is a commercial building and a licensed construction supervisor to take out the permits. Mr. Laporte stated that the roof repairs were Mickey Mouse at best. There was a piece of rubber roofing with a little bit of glue. In his opinion the roof was not repaired properly. Ms. Peterson stated that she was in that building and it is an absolute disgrace. Ms. Peterson stated that she just hopes no one gets hurt between now and when she can get the owners to take care of the repairs. Ms. Peterson asked how the Fire Department and the Building Department will start charging fines. Mr. Laporte stated that his department plans on pursuing it. At this point, he would need to talk with the Town Administrator, Tom Guerino. Ms. Peterson stated that the Board of Health wants to fine the owners starting September 14, 2015. Mr. Andrews stated that at the last meeting the owner stated that he was having a company come in within the next day or two to look at the possibility of mold because there was so much water. Ms. Guarino stated that she was not sure if the owner did or didn't have a mold specialist evaluate the situation. Ms. Peterson stated that she was in this building in early August so as far as she can tell, the owner is just telling the Town of Bourne that he is not going to take care of it. Mr. Laporte stated that the outside of the building is fairly clean. Ms. Guarino stated that it is a major improvement. **Mr. Andrews made a motion to fine the owners at 85-93 Main St, Buzzards Bay, M&L Associates LP, Daniel MacDonald, Attorney, owners of the property the maximum fine from September 13, 2015 forward which is \$300.00 per day. Mr. Uitti seconded the motion. Mr. Barlow abstained. Otherwise unanimous.**

4. **FUTURE GENERATION WIND – Attorney Fitch from Future Generation Wind to discuss wind turbine project and respond to letter sent August 27, 2015.** – Attorney Jon Fitch was present for this hearing. Attorney Fitch stated that he is here to hopefully address some local issues. His client wants to be a good neighbor and recognizes the value in a relationship with Bourne. There will be some impact within the Town of Bourne although the entire project is sited within the Town of Plymouth. There are 5 properties in the Town of Bourne, 3 of which are houses, which fall within the radius of 3 times the height of the turbines. The manufacturer specs are actually smaller than what has already been approved. The permit that was issued in the Town of Plymouth, requires post construction studies which he will supply to the board. In addition the project proponent is to develop a noise complaint protocol. It is not in place yet but before operations can begin, there must be an approved noise complaint protocol. Mr. Andrews stated that for topics to discuss it should start with item 6 variances in which it states to request a variance. Mr. Andrews reads item 6 from the regulations. Mr. Andrews asked Mr. Fitch if he is applying for a variance. Mr. Fitch stated no. Mr. Fitch stated that they are not convinced that they do not meet the Bourne regulations. Mr. Andrews stated that the previous owner, Mr. Mann, sat with this Board of Health last December and stated that shadow flicker would leave the property. That is one of the regulations. Mr. Fitch stated that he understands that and a protocol will be developed. Referring to the noise issue, there is reason to believe that they may comply with the regulations. Mr. Barlow asked if the turbines will be smaller or shorter. Mr. Fitch stated he was not sure but knows they produce less energy. Mr. Andrews stated that in December the board asked that they show the numbers and the model. The board was told those documents are ready but they were never given to the board. Mr. Andrews stated that the board spent a lot of time to write this regulation. Mr. Andrews stated that the board would like to see the ambient noise study. Prior and after in order to conform. Mr. Fitch stated that when Plymouth was considering approving this, they did not request any studies for the Town of Bourne. Mr. Fitch stated as a lawyer, he does not see where the Board of Health has any legal jurisdiction. Ms. Peterson stated that she disagrees. There are rules that were put into place and accepted by town council and DEP. Whether Mr. Fitch thinks he has to comply with this regulation or not, the board is here to protect the public from adverse health and nuisances. Mr. Fitch stated that Attorney Troy's comment is why he is here this evening. Mr. Troy stated in his letter that he is leaving it up to the Board of Health to decide whether they have jurisdiction. He does not say that the Town of Bourne has jurisdiction. Mr. Fitch stated that if he ends up being wrong then he will be approaching the board differently. The best thing to do right now is to try to determine with some authority, jurisdiction. Ms. Peterson stated that the board feels, as does town council, that Mr. Fitch needs a variance. Mr. Fitch asked if it would be possible for town council to communicate with him on what theory that this does apply across the border. Ms. Peterson stated that the board will need to request time with town council through the Town Administrator and the Board of Selectmen. Mr. Fitch stated that he would very much appreciate that to be requested. Mr. Barlow stated that he probably will not vote on this because

he is an abutter residing in Hideaway Village. Ms. Peterson asked to look at C2 of the regulation. Ms. Peterson reads the regulation for the record. A variance may be obtain to allow shadow flicker to extend beyond the lot lines as provided for in this section of variances. Mr. Fitch stated that he is not in disagreement that a resident of Bourne may experience flicker and noise nuisances. That resident will have a civil right against his client for that nuisance. What is being discussed is if this regulation applies and he feels it does not. Mr. Fitch would like to come back before the board at the next hearing with the information he said he would provide. Ms. Peterson stated that the board will always make room on an agenda for a variance. Ms. Peterson stated that the board would rather hear a variance request then just a discussion. Mr. Fitch stated that he has a much clearer vision of the concerns of the board and will be in touch with the office to get back on an agenda. Ms. Peterson stated that the board is not taking any action this evening so the board is not going to hear any public statements. When and if they come back for a variance, Ms. Peterson will allow public comments to address concerns. Lee Burns, Chairman of the Energy Committee for the Town of Plymouth stated that the Wind Turbine bylaw that currently exists does not have a clause for required testing after the turbines are built. Karen Gibides thanks the board for being involved in this wind turbine project. Ms. Gibides stated that when the hearings were taking place in Plymouth, they were never given an opportunity to speak because they were Bourne residents. They were not even notified of the meetings and they are direct abutters. Ms. Gibides stated that the Board of Selectmen act independently to issue a license for the transportation of the turbines. Does that mean that the Board of Health has no influence and the turbines can still be delivered? Ms. Peterson stated that the Board of Health submitted a letter explaining their feelings on project. That is all she can say at this time. Mr. Giard asked if the board would share what the letter stated that was sent to the selectmen's office. Ms. Peterson stated that Mr. Giard could go into the office and request a copy if he would like. **No action was taken at this time.**

5. **4 MASSASOIT AVE – Jamie Bissonnete of Prime Engineering, Inc. for Julie Vecchio – Request variances from the property line and a wetland resource area – Discussion and possible vote.** – Mr. Bissonnete was present for this hearing. Mr. Bissonnete informed the Board of Health regarding the septic system upgrade for this property. Mr. Bissonnete stated that this will be the Cadillac of septic systems. Mr. Bissonnete stated that there is a salt marsh and he has tried to get the system as far away from the wetland resource areas as possible. Mr. Bissonnete stated that he has not yet been before the Conservation Commission. Ms. Peterson asked why this is before the Board of Health before the applicant received Conservation Commission approval. The Board of Health makes it very clear that an applicant must have Conservation approval before coming in front of the Board of Health. Mr. Andrews stated that it saves time just in case the Conservation Commission changes the delineation. If the delineation changes by even one foot, the applicant must come back before the Board of Health with the new information. Mr. Bissonnete stated that he understood and appreciates not having to go back and forth between the boards. Ms. Guarino

stated that she has talked with the Conservation Agent, Brendan Mullaney, today. With this specific situation the edge of the salt marsh that is pretty apparent. There is a rock wall which outlines where the variances are being requested from. The board could take a vote contingent upon verifying the salt marsh. Mr. Andrews stated he does not want to vote on a waiver based on what the boards' policies are to date. The board has always required that the applicant go before the Conservation Commission first. Mr. Bissonnette asked if there are any concerns from the board that he should address with the Conservation Commission. Ms. Peterson stated that the board really can't answer that question. Ms. Peterson stated that because of the perfect package that Mr. Bissonnette has prepared, the board will probably be able to vote very quickly at the next meeting. Just need to have the Conservation Commission's findings. Ms. Vecchio stated that she actually met with the Conservation Agent, Brendan Mullaney, who told her he did not see any problems. Ms. Vecchio stated that this is very time sensitive due to the closing and would appreciate the board's decision. Ms. Peterson stated that usually Mr. Mullaney will supply the Board of Health with a letter stating they have not met with the Conservation Commission yet but he is ok with the project. Mr. Mullaney was not willing to give that letter so the board will not be voting on this item this evening. Mr. Andrews stated that in the packet all the dimensions are for the existing are there but not for the proposed. He needs the proposed dimensions for correct calculations of increase and would like them available before the next meeting. **Mr. Barlow made a motion to Continue 4 Massasoit Ave until the next meeting. Mr. Uitti seconded. It was unanimous.**

6. **COMMITTEE APPOINTMENTS – Stanley Andrews – Discuss and possible vote regarding procedure for all committee appointments** – Mr. Andrews stated that there are 2 committees that board members are members of. ISWM Business Model Working Group and the Wastewater Advisory Committee. Mr. Andrews stated that he currently sits on the ISWM Business Model Working Group and previously sat on the Wastewater Advisory Committee. He would like to ask if anyone else on the board would like to sit on the ISWM Business Working Group. Ms. Mastria asked how often the committee meets. Mr. Andrews stated usually just once per month. Ms. Mastria would like to know more about it before she commits. Mr. Barlow stated that it would be a good opportunity for Ms. Mastria. Mr. Andrews asked if Ms. Mastria would be his alternate. Ms. Mastria stated she would consider it. **Mr. Andrews made a motion to name Ms. Mastria as his alternate. Ms. Peterson seconded the motion. It was unanimous.** Mr. Andrews stated that the other committee is the Wastewater Advisory Committee. Ms. Guarino was sitting on that committee while working under Ms. Coffin. Mr. Andrews stated that Ms. Guarino has a lot more on her plate with being the Department Head now and suggests the Health Inspector, Jamie Butler sit on the Wastewater Advisory Committee. Ms. Guarino stated that she does not want to leave the committee. She does a lot on this committee. She is the secretary clerk. She has a lot of input and they have come a long way since she has been a part of the committee. Ms. Peterson stated that

she would like someone from the board be an alternate for Ms. Guarino. Mr. Andrews stated that he would be more than willing to accept as alternate. **Ms. Peterson made a motion to name Mr. Andrews as Ms. Guarino's alternate. Mr. Uitti seconded. It was unanimous.**

7. **PROCEDURE FOR EMAILS – Kathy Peterson – Discuss and possible vote regarding procedure on emergency board notification.** Ms. Peterson stated that there was an incident this week where Mr. Guerino sent Ms. Guarino a policy change with regards to sending Attorney Bob Troy all contacts regarding the wind turbines. Ms. Peterson stated that she has a problem with a procedural change that had not been discussed with the board. The board understands that there are times that Ms. Guarino will be told to do something by the town administrator. She feels, as a board, if emails are going to any other departments then the chair or the designee should see the emails first before the email is sent if it is something that is being discussed or might be discussed at an upcoming meeting. If it pertains to a possible Board of Health meeting, email the board members along with the other departments. Mr. Barlow asked with everything else that Ms. Guarino is doing, would a text be enough. Ms. Peterson stated that she just does not want emails going out that the board has no idea what is going on. This is a policy change on the board not an office procedural policy that Mr. Guerino can enforce. **Mr. Andrews made a motion that the board continue with the previously procedures that we use with the office when requesting to send something out that it go through the chair informally so that the chair is aware of what is going on and the chair can notify the rest of the committee. Mr. Barlow seconded the motion. It was unanimous.**

8. **EMERGENCY NOTIFICATION PROCEDURE – Kathy Peterson – Discuss and possible vote regarding notification procedure on emergency board notification.** – Ms. Peterson stated that this was discussed when Ms. Coffin was still the agent but it never came down to a final decision on how the board wants to handle it. Ms. Peterson stated that when other agencies are called out on an emergencies then those are the ones the board should be informed of before reading it in the newspaper. If a call ends up being more than just the Health Department than the Board of Health must also be notified. Mr. Andrews stated that the board members will get calls from the public so they are depending on the office to notify them as quickly as possible to be able to answer questions. Ms. Guarino stated that the boards needs to make it more clear what defines a public health emergency. It seems to be very different from what she defines as a public health emergency. As stated in the minutes when this was discussed after the fuel spill in April of this year what you are referring to today, those two incidences as examples, those two were not public health emergencies. Ms. Guarino asked if the board needs information when something may end up in the newspaper that doesn't involve the Board of Health or real public emergencies. Ms. Peterson stated that the mercury incident and the school getting evacuated are public emergencies. It will take a quick minute to inform the board and simply state no action was taken by the Board of Health. Ms. Peterson stated that this is the

emergency procedure and Ms. Guarino will need to use her best discretion as to what she clarifies as an emergency. Ms. Mastria stated that if the school gets evacuated, a lot of people are going to know about it and they will ask the board members questions. Maybe think about it in a way that if the public is going to know quickly about an incident then the board should be notified immediately. If a dilapidated building is being inspected and the health agent gets called out, the public would not be made aware at that point. Ms. Guarino stated that she understands but in that case with the school, she was not called out. Ms. Mastria stated that in that case Ms. Guarino would not have known anything so she would not have notified the board. Mr. Andrews stated that the first he heard of the mercury spill was in the newspaper. That is not somewhere that a board member should hear about an emergency. Ms. Peterson asked if Ms. Guarino was clear on this. Ms. Guarino stated yes. Ms. Peterson stated that there is no need to take a vote on this. **Discussion only.**

9. **APPROVE THE MINUTES from the meetings dated May 27, 2015 and July 22, 2015 – Mr. Andrews made a motion to approve the minutes dated May 27, 2015 with a correction change. Mr. Uitti seconded the motion. It was unanimous.** Mr. Andrews stated that there was discussion regarding the Health Agent's update that was not included in the minutes from July 22, 2015. This is also the meeting that the condensed minutes were approved. Mr. Andrews feels this set of minutes should be continued until the tape is reviewed. **Mr. Andrews made a motion to CONTINUE the approval of the minutes dated July 22, 2015. Mr. Uitti seconded the motion. It was unanimous.**

Mr. Andrews made a motion to adjourn the meeting. Mr. Uitti seconded the motion. It was a unanimous vote and the meeting adjourned at 8:44 PM.

Taped and typed by Lisa Collett, Secretary

Kathleen Peterson

Stanley Andrews

Galon Barlow

Don Uitti

Kelly Mastria –

cc Board of Selectmen/Town Clerk