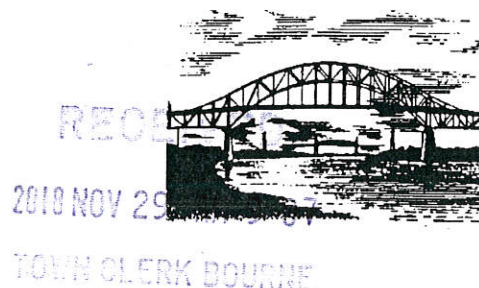


Terri A. Guarino  
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## TOWN OF BOURNE BOARD OF HEALTH

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### MINUTES October 24, 2018

Members in attendance: Kathleen Peterson, Chairperson; Stanley Andrews, Vice Chairperson; Galon Barlow Jr.; Donald Uitti; and Kelly Mastria

Support Staff in attendance: Terri Guarino, Health Agent; and Kayla Davis, Heath Inspector

#### **Meeting was called to order at 6:03 pm with four members present.**

*Ms. Peterson asked if anyone was recording at this time. Michael Rausch and Beth Treffeisen acknowledged that they were recording audio of the meeting.*

- 1. ISWM—Review of recycling center draft policy for calendar year 2019.** Daniel Barrett, General Manager of the Town of Bourne Department of Integrated Solid Waste Management was present to discuss the minor changes proposed for the 2019 Recycling Center Policy. Beds, boxsprings, and mattresses will be \$20 in 2019. Each resident will still get four bulky items to dispose of for free, and that can be applied for mattresses. For proof of residency or ownership all persons must provide current property tax bill, lease, deed with stamps, or other. Many residents noticed there weren't long lines this past year and are hoping for the same this year. Ms. Peterson suggested adding the Board of Health's telephone number to the pamphlet. Mr. Barrett and Mr. Barlow agreed. Mr. Barrett provided a brief update and described that the permitting process has been complicated for Phase 6. There was a Single Supplemental Environmental Impact Report (SSEIR) required by MEPA. There have been 15 or 20 notifications of project change over the past few decades and the Commissioner did approve the SSEIR which allowed for them to proceed to go to the Cape Cod Commission. They needed to file a new DRI for the Cape Cod Commission to implement some new information on Stormwater management in particular. They simultaneously applied with MassDEP for authorization to construct and there were some adjustments to details. There were modifications to better handle leachate and deal with the complication of ash. ISWM collaborated with Covanta and others to come up with a better design on that. MassDEP approved the authorization to construct on July 16<sup>th</sup>. The CCC will be holding a subcommittee public meeting on Monday October 29<sup>th</sup>. ISWM has put the contract out to bid and is ready after all permits and approvals are obtained. Ms. Peterson asked for questions from the Board. Mr. Barlow asked if ISWM would like support from the Board of Health at the upcoming meeting. Mr. Barrett said that would be helpful. Ms. Peterson asked for questions or comments from the public or board. Being none, **Mr. Barlow made a motion to approve the recycling center policy as amended. Mr. Uitti seconded the motion. All in favor, and the vote was unanimous to approve.**
- 2. 12 Holt Road, Apt. 1—Newman Properties—Failure to comply with order to correct violations of State Sanitary Code, 105 CMR 410.00 from October 18, 2018. Dwelling unit deemed unfit for human habitation 10/23/2018.** Mr. Andy Heeley was present on behalf Newman Properties, who manages Cape Cod Canal Apartments. Christina and Debbie Coleman, the occupants of the apartment were also present. Health Inspector, Kayla Davis stated that the Health Department received a complaint on October 18<sup>th</sup> about a blackwater flood. Ms. Guarino added to the severity and uniqueness of the situation. Ms. Peterson asked if the occupant was staying in a motel since it is not habitable. Christina answered yes, that she has been since October 14<sup>th</sup>. Ms. Peterson asked if the owner had helped make arrangements to accommodate this situation. Mr. Andrews arrived to the



meeting and joined the board, now five members present. Mr. Heely described that he had a plumber snake and scope the plumbing to clear the drain after finding out about the sewage backup. He asked around and found Furtado Cleaning from Plymouth, MA to do the work to remediate the damage. They said they were qualified. Ms. Peterson asked if they had another unit to relocate her into or if they offered to put her up in a hotel. Mr. Heeley said that they hadn't got to that point they are still trying to resolve the issues. Does Newman Properties have a policy in place that they will put someone up in a hotel as this clearly is not her fault? Mr. Heeley did not have an answer and anticipates that it is taken care of. Miss Coleman added there was a plumbing issue on September 25<sup>th</sup> of a backup in the shower and it was corrected on September 26<sup>th</sup>. Mr. Andrews asked when he thinks he will have all of the remediation completed. Mr. Heeley said that he has contacted ARS Remediation and requested a written proposal yesterday. Mrs. Mastria asked how they will ascertain that mold is not behind the walls. A qualified remediation company will need to determine that. Ms. Peterson said that she feels Newman Properties is making an effort and cooperating to the best they can but wants to make sure that the occupant is not held responsible for costs incurred. **Mr. Andrews made a motion to order the property managers, Newman Properties, to pay for the lodging expenses of the tenant until the apartment has passed all inspections and is approved for habitation.** Ms. Peterson asked if there are cooking accommodations, which Miss Coleman said no. Ms. Peterson wanted to add reasonable food expenses retroactive from the 14<sup>th</sup> of October to the motion. Mr. Andrews agreed to add that the property manager be ordered to pay for that as well. Mr. Uitti seconded the motion. All in favor and the vote was unanimous. An abutter stood up and asked what will be done to be sure the mold does not spread and that the common areas which smell strongly of mold. She stated the original contractor did not adequately protect the stairways when they were hauling out contaminated items. Ms. Peterson added that will need to be taken care of as well.

3. **Savery Avenue Shared Septic System Upgrade-- Informational Discussion with Bracken Engineering, Inc. Further discussion at a later date.** Ms. Peterson summarized the situation with this community septic system which was deemed to be in failure. Mr. Zac Basinski, P.E. of Bracken Engineering was present on behalf of the Town of Bourne. Ms. Peterson said that there are draft plans if anyone in the audience wants to review them, but the Board will not be taking any votes this evening. Bracken Engineering was hired by the Town to design a septic upgrade and is proposing a Presby Enviro Septic system. This system will require variances from Bourne Board of Health regulations and possibly Title 5. Mr. Barlow stated that over 100 years ago these houses were all constructed by the same builder and all of the houses were tied together discharging into the canal. This community septic was approved at a Town Meeting to correct the outfall to the canal. Mr. Barlow said it will be interesting to see what was done in 1980 compared to what should be done today. Ms. Peterson was not able to find information other than the easement describing that the system is cited on U.S. Army Corps of Engineers property. There was discussion on which of the houses are connecting to the town owned system. Ms. Peterson said that according to Title 5, we will need an operation and maintenance plan and description of ownership. Mr. Andrews added that this is under the Sewer Enterprise Fund. Ms. Peterson continued that at a minimum there will also need to be a financial assurance mechanism approved, and deed restrictions recorded as conditions of approval. All of which will need to be discussed with Town Counsel. Mr. Barlow said that it would be good to know when they were added to the Sewer Enterprise fund. Mr. Andrews agreed with the conditions. Ms. Guarino stated that she will put in a legal services request and set up a meeting with Town Counsel. There was no vote taken.
4. **Tobacco Regulations—Discuss and possible vote to amend existing Board of Health Tobacco regulation restricting the sale and usage of tobacco products. Change in minimum sales age and total number of permits issued.** Mr. Collett, Director of Cape Cod Regional Tobacco Control Program, was present. There was discussion on the new state law which goes into effect on December 31<sup>st</sup>. Many towns are being conservative and putting into effect an amended regulation on December 28<sup>th</sup> to change the minimum sales age. **Pursuant to M.G.L. c. 111, §31, Mr. Andrews made a motion to amend the tobacco regulations by changing Section D1, minimum legal sales age from 18 to 21, Section T for the effective date of these changes to be December 28<sup>th</sup>, Section E11 to remove a cap on the maximum number of tobacco products sales permits, and all language to reflect the minimum sales age of tobacco products to 21.** Mr. Uitti seconded the motion, all members in favor, and the motion passed unanimously.



5. **Buzzards Bay Action Committee—Continued from August 8, 2018-- Requesting to be heard before the Board of Health to discuss Future Generation Wind's operations and associated conditions it has created for Bourne neighbors.** Mr. Barlow recused himself for this item and will not be returning. Mr. Ian Davies of Buzzards Bay thanked the Board of Health for listening to them today. He stated that he would like to talk about a few items and turn it over to Chris Kapsambelis and Karen Gibides. He would like to run through the timeline that the permit was issued two years ago by Plymouth and that it is not solidified. Ms. Peterson said that the permit is in Plymouth and that this discussion must be limited to Bourne. Mr. Davies continued going on about the Plymouth permit being in arrears. Ms. Peterson asked him to refrain. Mr. Andrews said that we cannot discuss Plymouth permits or anything beyond the town line in Plymouth. This discussion must be limited to the impacts in Bourne. Ms. Peterson added that she wants to hear these impacts and discuss how the Board can help you. Mr. Davies estimated that there have been 350 complaints and read an email sent to the Buzzards Bay Action Committee. Ms. Peterson asked why we did not receive these complaints. Mr. Davies said that they were dropped off at the last meeting. Ms. Peterson said that we have gone over time and time again that the Board of Health cannot file complaints for them although they know it is beginning to cause a nuisance to the neighborhood. Mr. Davies asked if the Board will deem it a nuisance. Mr. Andrews stated that he needs testimony and evidence to consider that. Mrs. Mastria asked what else the Board needs or if all of the complaints and emails over the past two years is enough to make that determination. Ms. Peterson said she wants to ask MassDEP and the Town of Plymouth to step in and read a draft letter she believes the Board of Health should send. "The Bourne Board of Health is bound by the results of the Superior Court and seeking direct assistance to effectively resolve the matter. On the basis of current information, it can be determined that the reoccurring noise, flicker, and other conditions generated by this facility unreasonably interfere with the comfortable enjoyment of life and property and is therefore injurious to public health. Collectively, both residents of Bourne and Plymouth have shared their experiences of sleep disturbance, stress, negative effects of flicker invading onto their properties, distracting noise and vibrations from the turbines operating during adverse conditions. For the source of a sound to meet the criteria for a violation of MassDEP's regulations, 310 CMR 7.10, the noise must be measured outside of the jurisdiction of the Bourne Board of Health in the abutting Town of Plymouth..." **Mr. Andrews agreed and made a motion to send out the letter and also copy our Board of Selectmen. Don Uitti seconded the motion. All in favor and the motion passed unanimously.** Public comment from Mr. Kapsambelis, asking for the Board to add some information to the letter. This has already been considered and discussed by the Board prior to drafting the letter. Ms. Gibides interjected and said she feels like they are bullying her and she doesn't know what to do. Ms. Peterson responded that no, they are helping her but there is only so much Bourne can do. Ms. Peterson added that their hands are tied and are bound by the results of the Superior Court. Ms. Gibides said she wants to go to the Board of Selectmen and ask for legal help. Mr. Kapsambelis submitted a graph that shows that the local regulation 40 dbA nighttime cap is exceeded. Ms. Peterson clarified that our regulations did not hold up in court and inspectors cannot go out at 2:00 in the morning. Ms. Peterson said that if these wind turbines were in Bourne, it would be a different conversation. Mr. Andrews added that because they are in Plymouth the Town of Bourne does not have a permit to suspend or revoke. Ms. Gibides said that the Health Agent said that they were awaiting some new information to see the results and DEP comments of the sound study. Ms. Peterson responded that we are still waiting on that information and will send the letter without it. Mr. Larry McGrath, Plymouth resident, thanked the Board of Health for doing this and said he appreciates it.
6. **Approve the Minutes—Approve the minutes from the previous meetings on September 12, 2018 and September 26, 2018.** Mr. Andrews made a motion to approve the minutes from September 12<sup>th</sup> and September 26<sup>th</sup>. Mr. Uitti seconded the motion. All in favor and the motion passed unanimously.
7. **Set tentative date for next meeting and adjourn.** November 14, 2018 will likely be the next meeting. Mr. Andrews made a motion to adjourn the meeting. Mr. Uitti seconded the motion, all in favor, and the meeting adjourned at 7:40 PM.

Taped & Typed by Terri Guarino, Health Agent

Kathleen Peterson

Stanley Andrews

Galon Barlow Jr.

Don Uitti

Kelly Mastria