



# Town of Provincetown

## Joint Meeting of the

### BOARD OF SELECTMEN and BOARD OF HEALTH

November, 28, 2016

Judge Welsh Hearing Room, Provincetown Town Hall,

260 Commercial Street, Provincetown, MA

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**Board of Selectmen Members Present:** Raphael Richter, Chair; Tom Donegan; Dr. Cheryl Andrews; Eric Yingling, and Robert Anthony

**Board of Health Members Present:** Mark Phillips, Chair; Steve Katsurinis, Vice-chair; and Dr. Janet Whelan

**Board of Health Members Absent (excused):** Elise Cozzi; Fred Latasa-Nicks, Alternate and Joseph Freitas, Alternate

**Other attendees:** Morgan Clark, Director of Health; David Panagore, Town Manager; David Gardner, Assistant Town Manager; Rich Waldo, DPW Director; and Sherry Prada, DPW, Director of Operations

**Recording secretary:** Susan Leonard

#### **Call to Order:**

Raphael Richter, Chair of the Board of Selectmen, called the members of the Board of Selectmen to order at 5:02 p.m.

In turn, Mark Phillips, Chair of the Board of Health called the members of the Board of Health to order at 5:03 p.m.

**Agenda Item 1.** - Joint Meeting with Board of Health – Discussion regarding the Rental Certificate Program, solid waste removal regulations and other Board of Health matters – Director of Health Morgan Clark

#### **Discussion:**

Morgan Clark presented the Board of Selectmen with an overview of the Rental Certificate Program. The Board of Health regulates rental units under the State Minimum Standards of Habitation Sanitation Code and the local rental certificate program regulations. The Health Department insures basic life, safety, and human habitation codes are met.

There are three components of the Rental Certificate Program:

1. Applications are submitted and reviewed. For about 10% of these applications it takes an hour or two to review

2. An application is received that requires additional review that may include inspections, bedroom counts being done and floor plans review. Other departments may have to be consulted. About 65% of applications fall into this category taking two or three hours to process.

3. About 25% of applications require a much lengthier review requiring multiple meetings with senior staff. There may be inconsistencies in the property file that need to be reconciled.

The department also receives complaints of violations from various sources that require an immediate inspection by staff. Depending on compliance of the property owner, a follow up inspection by staff or order to correct may be indicated. This is the most time consuming part of the program.

The Health Department approach has changed since the Code Compliance Officer was hired. In the first six months of 2016, the department received 297 applications. There was limited out-reach and public education regarding the Rental Certificate Program. After the compliance officer was hired, 575 applications were received. Ms. Clark pointed out the new model relies on expanded out reach campaign to the public, incentivizing voluntary registration to avoid double fees and incentivizing compliance by requiring a rental certificate number be published for on-line rental listings.

Ms. Clark added that there is a misconception that the fee is not for an inspection of each property. Mr. Katsurinis pointed out that the previous fee the department was charging was not sufficient to support the program. The new fee took into consideration the cost of the Code Compliance Officer.

Mr. Richter stated that it is important to be forward thinking in the approach to crafting the best rental Certificate Program possible.

Mr. Anthony asked if there would be inspections of the rental properties in the future? Ms. Clark responded that presently the Board of Health focus has been casting the widest net possible trying to get everyone into the program. She still does inspections, but it is generally through the complaint or violation process. Once the program is built, a randomized inspection program will be feasible.

In answer to a question from Mr. Anthony, Mr. Gardner stated that the Code Compliance Officer is a seasonal employee who works between 20-40 hours a week. As the program progressed the hours increased. Mr. Panagore added that he is considering placing the fees into a revolving account in order to maintain the position consistently over the three year period the fees cover.

Dr. Andrews said that she had been approached by members of the public who questioned what they were getting for the \$300 fee, if there was no inspection. She was surprised there was no mandatory inspections. Inspections that are not based on complaints is a valuable tool. A short inspection for a first time applicant makes sense. Could there be a fee structure for renewals rather than a blanket \$300. Some landlords of year round, affordable properties didn't like being lumped in with seasonal weekly rentals. Can it be treated by type of use?

Mr. Phillips responded that in the past staff used to inspect every unit and not finding any violations. They spent a lot of time and did not accomplish a lot. Emphasis has now changed to getting as many of the rental units registered. It is estimated there will eventually be about 1,800 – 2,000 units in the program. Once everyone is on the books, a random inspection program will proceed.

Dr. Andrews suggested that since there seems to be a significant number of units that may be subject to inspection already, the department should just go ahead and inspect all the first time applicants. She is also of the opinion that a reduction in the fee for subsequent certificate renewals should be considered by the Board of Health.

Mr. Katsurinis said the code standards are the same for affordable and non-affordable units. The fee reduction for affordable units is the department's way to encourage more affordable housing. After consulting with town Counsel, the Board was informed that they can not treat properties differently according to use. We can't discriminate against a short term vs. year round rental. We don't assume that a renewal requires less effort than a first time applicant. People make changes to there properties all of the time and a mid-cycle change may not come to the attention of the Board.

Mr. Donegan praised the board for its great work. He pointed out that by his calculation, the first two levels of rental applications would use up the entire 13 weeks of the seasonal compliance officer. He believes that there will soon be some sort of short term rental tax in the future. This program will allow the implementation to be done at short notice. The infrastructure will be in place.

Mr. Yingling said he has always been very supportive of the program. It gives us a better handle on the rentals in town. He thinks that \$100 is a reasonable fee for what is being accomplished.

Mr. Richter had a question about other town's fee. Ms. Clark said other towns regulate one category over another probably based on commercial use. He generally supports the program. Housing of all kinds is important. He just doesn't want anything that exacerbates long term housing. He isn't convinced that inspections are absolutely necessary of all rentals and foresees the efforts shifting in the future.

Dr. Andrews asked if the rules would have to be changed at all if room tax comes into effect? Mr. Katsurinis responded that if State law creates a new category of use then the Board may have to address it. At the moment, all residential units are regulated the same. It's all under the Standards of Human Habitation.

Ms. Clark said the complaint process should not be discounted. The complaint process is very robust.

Mr. Anthony asked about outreach and mailings. Ms. Clark responded that it is a year round process. Everyone will be notified about a renewal.

**Agenda Item 2.** - Others – Other matters that may legally come before the Board not reasonably anticipated by the Chair 48 hours before the meeting. Votes may be taken.

**Discussion:**

Mr. Richter wanted to review trash pick up as covered under Article 3 –Sanitation Collection & Disposal, Section1, Part I – Refuse at condominiums. He said they are looking at ways to make services more available for condominiums and second home owners. This opportunity might be a way to do that.

Mr. Panagore informed the Board that, although trash pickup is found in Health Department regulations, it is more of an operational issue rather than a health issue. Ms. Prada and Mr. Waldo of the SPW are here to address the Board's concerns.

Ms. Prada informed the Board that she went to the sanitation foreman for an answer. It all comes down to space based on the size of a trash barrel. If you put out all the barrels for a nine unit condo association (which is the first tier cut off for pick up) it would be 16 feet long and 4 feet deep. If you add recycling totes you can double the square footage. The assessor's office provided a list of 898 units at 51 different locations. This would amount to 1,796 barrels. If you added another 51 stops to the route, it would require hiring, at a minimum, an additional person or two people in the summer plus another truck. When 90 Shankpainter Road was added it took another 30 – 45 minutes to service the complex. She sees the logic of why we don't do it.

Mr. Richter said he sees it as all coming down to not enough space in Provincetown.

Mr. Panagore added that there is not a city he has worked for that does this for the exact same reason. It is not unique to Provincetown.

Mr. Donegan said he would appreciate trash pick up on a private way. Mr. Richter asked if it has ever been reconsidered? Ms. Prada said she has never been approached about it.

Mr. Richter asked if there were any other comments?

Mr. Phillips informed the Board of Selectmen that the Board of Health has begun discussion of "recovery housing" for sober housing. The stake holders are being identified and another meeting will be held in the Spring. The board has also addressed and updated smoking regulations to cover e cigarettes and has raised the smoking age to age 21. Medical marijuana use has also been covered in the new regulations.

**Adjournment:**

There being no further business, Raphael Richter moved to adjourn the joint meeting at 5:58 pm. In turn, Mark Phillips moved to adjourn the joint meeting at 5:58 pm.

Respectfully submitted,

Susan Leonard

**Approved by \_\_\_\_\_ on \_\_\_\_\_, 2017**