



# Town of Provincetown

## Meeting of the

## BOARD OF HEALTH

Thursday, June 4, 2015

Judge Welsh Hearing Room, Provincetown Town Hall,  
260 Commercial Street, Provincetown, MA

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**Board Members Present:** Mark Phillips, Chair; Elizabeth Williams and Dr. Janet Whelan

**Board Members Absent:** Steve Katsurinis, Vice Chair; Ken Janson, and Joseph Freitas, Alternate

**Other attendees:** Morgan Clark, Director Department of Health and the Environment

**Call to Order:** Mark Phillips, Chair called the meeting to order at 4:00 p.m.

**Recording Secretary:** Susan Leonard

### **I. Public Comments:**

There were no public comments.

### **II. New Business:**

**a. New Food Establishment: Mimiere's, 258 Commercial Street, Andrew Hood presenting.**

#### **Discussion:**

This agenda item was postponed until the next Board meeting because the owner was not present.

**b. New Food Establishment: Sweet Waves, 293 Commercial Street. Jason Aubee, presenting.**

#### **Discussion:**

Jason Aubee appeared before the Board to present information about his new business. Ms. Clark explained that he has gone through plan review and has just passed the final inspection. Although the business is self serve frozen yogurt and toppings, she is satisfied that the owner has thought through the sanitation issues that are involved in it. Mr. Aubee explained that it is a new concept for Provincetown. He is also opening a new store in Chatham. Having already operated a location for two years in Mashpee, he is obsessed with cleanliness and has a system in place to isolate potential allergens. In response to a question by Mr. Phillips, he said the Licensing and Board of Health process here was lengthier than other towns, however the actual process went smoothly.

**c. New Food Establishment: 2 Southern Sissies, 205 -209 Commercial Street. Keith Lewis presenting.**

#### **Discussion:**

Ms. Clark informed the board that Mr. Lewis has worked with her throughout the process of plan review and inspections and has opened up a beautiful, fully compliant facility at Aquarium Mall. Mr. Lewis explained that they are serving Southern BBQ. Everything served will be made fresh on the premises. Although this is his first restaurant, he did graduate from the Culinary Institute of America. Mr. Phillips asked about his experience with the Health Department during the process. Mr. Lewis replied that it was great. They were walked through the entire process. It was made easy for them.

**d. Discussion with members of the Provincetown Animal Welfare Committee regarding overlapping areas of responsibility. Sherry Brec, presenting.**

**Discussion:**

Sherry Brec and Carol Macdonald of the Animal Welfare Committee introduced themselves to the Board. Ms. Clark explained that the Town is in need of an animal inspector, which is a concern of both the Health Department and the Animal Welfare Committee. Ms. Brec explained that most of the duties of the animal inspector fall under the area of interest of the Animal Control Officer, however “Barn Inspector” does not seem to be one of the duties. The Animal Welfare Committee is concerned about this. If a Barn Inspector had been available then the zoning issues earlier this year regarding the raising of rabbits could possibly have been averted. Ms. Brec asked if a volunteer could be appointed to do barn inspections which would involve making sure the conditions are sanitary, doing an annual census and determining that there were no sick animals. The information would then be filed with the State Department of Agriculture. Ms. Clark stated that a volunteer inspector is acceptable by the State. There may some training funds available through her department. The inspector would be sworn in, in an official capacity by the Town.

Ms. Brec will check into any courses that may be available for the inspector. She also explained that if the inspector found any issue or violation then he could request a police officer to accompany him to the location. Ms. Clark added that the Health Department does have oversight on issues of pests and public nuisances.

**Motion: *To allow the Town to appoint a volunteer as chosen by the Animal Welfare Committee as Town animal inspector to perform the annual animal census.***

**Motion: Mark Phillips**

**Seconded: Betty Williams**

**Vote: 3 – 0 - 0**

**e. 24 Cottage Street – Title 5 Variance Request – Cass Benson, presenting.**

**Discussion:**

Cass Benson property owner appeared before the board along with Shawn Macinnes, consulting engineer and builder Kevin Bazarian. Mr. Macinnes informed the Board that this is a repair to a failed system. The property is quite small and requires variances to be implemented. They are asking for the following variances:

1. Variance in the distance from the septic tank and the foundation (the tank is below bottom of foundation) [2.9 ft]
2. Variance from the tank to the property line [6 ft.]
3. Variance of the soil absorption system from the foundation (the SAS below bottom of foundation) 6ft.

4. Variance for SAS from the property line [6 ft.]

Ms. Clark explained that the property that been condemned temporarily by the BOH a couple years ago. It is an extremely small lot and it has been served by a cesspool. The proposed plan has been reviewed by County agent George Heufelder and Mr. Macinnes has addressed the questions that were raised. Mr. Macinnes said he could install a heavier H2O tank, if the Board prefers, in case the new owner wanted to try to use the 7ft. wide space as a driveway. Ms. Benson added she would be amenable to it.

Mr. Phillips stated that the request is not out of line with variances that the Board has approved in the past.

**Motion:** *That we approve these variances, but specify that the tank be H20 rather than H10 as shown on the plan.*

**Motion:** Janet Whelan

**Seconded:** Betty Williams

**Vote:** 3 – 0 - 0

Materials Submitted: Septic System Upgrade Design for Cassandra Benson,  
24 Cottage Street, Provincetown, March 30, 2015, Macinnes Consulting, LLC, East Sandwich, MA  
02537

**f. Discussion of the Administrative Consent Order process given the status of the Municipal Wastewater Treatment Plant**

**Discussion:**

Ms. Clark has been in the process of determining which properties have ACOs. There are some ACOs that have expired the time frame of the original agreement, as well. In a conversation with DPW Director Rich Waldo, he has suggested that the Board of Health continue to approve ACOs. Although there is no capacity at the moment, he believes sewer expansion will be approved in the future it and it would not be fair to require property owners to install a costly system if there is any chance that municipal sewerage will someday be available. The ACOs help the engineers with planning. He would prefer that the determination of “public health failure” be used for true emergency situations and not for “technical failures”. If the Board is comfortable with approving ACOs, Ms. Clark will bring requests to it for consideration. The Water & Sewer Department would however be the first to review any such requests. Water & Sewer has begun ranking the existing ACOs in order of the likelihood of actually being connected to the existing sewer or future extensions.

Mr. Phillips is not opposed to approving ACOs, but would like to see the analysis of existing and expired ACOs. He does not want to approve continuation of expired ACOs if the probability of connection is nonexistent. Ms. Clark said there are about 44 ACOs at the moment. She is reconciling the lists she has been given. Some properties may have installed Title 5 by now.

**g. Review and discussion of regulations and fees to be heard at a public hearing on June 18, 2015:**

- i. Changes to Part IV Art. 5 - Food Establishment Regulations**
- ii. Changes to Part XII Art.1 – Habitations for Rent**

**iii. Changes to Board of Health Fees (Part VIII, Art.1 – Fee Schedule;  
Part VI, Art.5 – Solid Waste Fees)**

**Discussion:**

**Part IV, Art. 5 - Food Establishment Regulations**

Mr. Phillips stated that the new regulations are much more concise and easier to understand. He asked if section 5.8 allows guest houses to serve cookies or cheese and crackers to guests. Ms. Clark said it was not an issue if it is not advertised to the general public. Ms. Williams asked about section 4.4 Dog Dining and if there had been any more requests. Ms. Clark replied no, there were not. Also, she will be distributing the placards to the restaurants soon.

**Part XII Art.1 – Habitations for Rent**

Ms. Clark explained that Town Counsel reviewed the regulations and outlined the renter certificate program requirements. He suggested that in questions of determining occupancy, an inspection may be warranted. Ms. Clark has the authority under Minimum Standards of Human Habitation to inspect any property when she deems necessary. The online permitting will eventually be linked to the assessor's data base.

Counsel built in a more robust Section 6: Suspension, Modification or Revocation of Rental Certificate.

**Changes to Board of Health Fees (Part VIII, Art.1 – Fee Schedule);  
(Part VI, Art.5 – Solid Waste Fees)**

Ms. Clark advised the Board that all the fee schedule changes have to go before the Board of Selectmen. We will re-approve Solid Waste Fees and approve the rest of the proposed fee changes at a public hearing at the next meeting and then send them to the Board of Selectmen.

Dr. Whelan verified that there are no fees for non-profits to take trash to the Transfer Station. Mr. Phillips pointed out that there is a simplification of the food service fees. Ms. Clark said there is an increase in the Test Hole Witness fee to cover what the Town incurs. The renters certificate needs a fee that can be easily administered by the new online permitting software. For discussion purposes Ms. Clark suggested a fee of \$50/unit /year. As a comparison, Amherst, Massachusetts charges \$100/year. Mr. Phillips stated that, in his experience, it has to be based on the cost to the Town to provide the service. He asked if a per unit basis is used, is the work performed to certify the property the same for multi unit properties as smaller properties?

Acting Town Manager, David Gardner added that in the past the fees were based on inspections being part of the service provided in order to obtain a renters certificate. If there is now self – certification then initially there is still a lot of administrative service provided, until it is fully automated. A per unit fee makes sense for administrative purposes. Ms. Clark thinks a three year fee still makes sense and is more convenient for property owners. The software program will automatically notify property owners when to renew their certificate. It will be a good communication tool for other reminders, as well. She reminded the Board that they may consider any other fee changes they would like at the public hearing.

### **III. Any Other Business That Shall Properly Come Before the Board**

Mr. Phillips informed the Board that they must ratify the date and time for a Special Meeting next week for an appeal of an Order to Correct issued by Ms. Clark. The proposed date is Monday, June 8 at 4:00 pm at Caucus Hall.

#### **Approval of Minutes – April 16, 2015 and May 7, 2015**

After the reviewing the draft minutes for April 16 and May 7; the Board considered the minutes separately.

**Motion:** *To approve the minutes of April 16, 2015 as written.*

**Motion:** Betty Williams                      **Seconded:** Dr. Janet Whelan                      **Vote:** 3 -0 -0

**Motion:** *To approve the minutes of May 7, 2015 as written.*

**Motion:** Betty Williams                      **Seconded:** Mark Phillips                      **Vote:** 3 -0 -0

### **IV. Health Department Report**

#### **FYI**

\*Ms. Clark reported that the tick season is much worse this year. The County extension etymologist has made available information about treatment options and approved topical repellants for clothing.

\*Morgan is taking a course: Managing Effectively in Today's Public Health Environment through MHOA and BU School of Public Health

~ Course includes smaller free online courses from Local Public Health Institute at BU School of Public Health. It may be of interest to Board members

\*The Department will have an intern for the summer from UMass Dartmouth to help with a needs assessment to guide strategic planning about building our public health programming

~Needs assessment will culminate in a stakeholder meeting in the Fall

~Currently working on the UMass Dartmouth IRB for approval for the project

\*All fee changes must go to Board of Selectmen for approval after BOH public hearing on fee changes on June 18, 2015, it will be on the BOS agenda for July 13, 2015

\*Ms. Clark was contacted by State Department and given resources for complaints about circumstances for J-1 visa holders: [jvisa@state.gov](mailto:jvisa@state.gov)

~Also will be sending a team of monitors to the Cape to check on J-1 visa holders

\*Laura Marin and Morgan Clark are still working on restaurant plan review materials and outreach materials for guest houses that serve breakfast. They will be rolling them out over the next few weeks.

~ The Department has started accepting broken and old thermometers from restaurants to ensure proper disposal

**Emergency Planning**

- \*The Department has received Planning Board approval for the storage container
- \*The storage container was paid for by Truro has been received and is in place at VMCC
- \*Americorps and other volunteers are building shelves and moving and organizing existing supplies on June 23
- \*Provincetown funds were used to purchase kitchen supplies
- \*Received FEMA/MEMA grant to purchase shelter registration supplies

MAVEN training brought up some good questions about latent TB follow up. We may try to build a small program to enhance follow up

Mr. Phillips asked if there has been any further action on the grease trap regulations since the joint board meeting. Ms. Clark replied that it is at the top of her list.

Ms. Williams asked if there is any news on Camp Lightbulb. Mr. Phillips replied that he received a brochure and the camp will be operating in Truro this summer and is fully compliant.

Mr. Phillips asked if the beach flags are in use? Ms. Clark replied that there has not been a closure yet.

**V. Board Members' Statements**

There were no additional statements by Board members.

**Adjournment:**

There being no further business, Mark Phillips moved to adjourn the meeting at 5:55pm.

Respectfully submitted,

Susan Leonard

**Approved by \_\_\_\_\_ on \_\_\_\_\_, 2015**