



## Town of Provincetown

### Meeting of the BOARD OF HEALTH

Thursday, November 21, 2013

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

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**Board Members Present:** Mark Phillips, Chair; Ken Janson and Dr. Janet Whelan

**Board Members Absent:** Laurie Delmolino, Vice Chair and Elizabeth Williams

**Other attendees:** Morgan Clark, Public Health and Safety Officer

**Recorder:** Susan Leonard

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

#### **Public Comments:**

There were no public comments.

#### **Old Business:**

##### **Review of Policy Statement on Tattooing of Minors in Special Circumstances**

Morgan Clark informed the Board the draft version of the policy statement that they had approved has been reviewed by Town Counsel. It has only been edited slightly. Town Counsel also created a release form tied to the policy statement. This is a release only for those people who fit the criteria determined by the Board. This will allow the department to handle any such requests administratively.

Mr. Phillips asked if there is a specific reason why town Counsel did not include a signature line for the minor? After all, they are involved in the process. An issue that might arise is a minor who does not want his tattoo covered. He would like to ask town Counsel about this.

#### **New Business:**

##### **A. Public Hearing on proposed Board of Health Regulations, Part V, Article 2 – Regulation on the Content and Application of Fertilizer Used in the Town of Provincetown.**

Since this is a public hearing, Mr. Phillips asked if anyone from the public would like to make a statement regarding the new fertilizer regulations? There were no public statements made.

Ms. Clark explained that they had been dealing with a very strict time frame in dealing with the approval of the new regulations. Senator Wolf obtained an extension to the deadline in addressing the issue. The Board of Health now has until December 31, 2014. Ms. Clark added that this extension is very important because town Counsel has not even had time to review the regulations. The Town of Provincetown does not pass any regulations that have not gone before Town Counsel.

Mr. Janson asked if it has now been forwarded to Town Counsel? Ms. Clark replied that Town Counsel was waiting for the Board's decision on the matter. She clarified that the regulation they have before them is the final version from the Cape Cod Commission. Mr. Phillips asked Ms. Clark go ahead and send it to Town Counsel for their review. Once the Board receives the documents back from Town Counsel, the public hearing will be continued to a date certain in the future. If the Cape Cod Commission releases any newer versions of the regulations in the future, Mr. Phillips stated that he would want that to go before counsel as well. The Board will not consider anything that has not been reviewed by Town Counsel.

### **B. Food Code Variance Request Section 3-502.11 – Mac's Seafood – 85 Shankpainter Road**

Ms. Clark explained that the variance requests to use vinegar as a food preservative. The business owner has provided all the necessary documentation that includes the Plan of Operation, the Sushi Rice Recipe, Refrigeration Log and Reports and also an explanation of how to use the pH meter.

Macgregor Hay, owner of Mac's Seafood, presented the request for a variance to use acidification as a method for preserving sushi rice.

Mr. Phillips asked if Mr. Hay served sushi at his other locations? Mr. Hay stated that he has been serving sushi at his Wellfleet restaurant for 8 years.

Mr. Hay questioned the requirement for back-up test strips for the pH meter. The guidelines ask for test strips that are accurate to 0.1pH. There are not any available that are that sensitive. The strips that are available are accurate to 0.5pH. Is it all right to use the strips that are available? The Board agreed that it was acceptable.

**Motion:** *To grant a variance to Macgregor Hay to use acidification as a method of food preservation.*

**Motion:** Ken Janson

**Seconded:** Dr. Janet Whelan

**The motion was passed by unanimous vote 3- 0**

**C. 2 Bradford Street – Request to re-sign ACO and discussion on imposition of criminal fines.**

Sheila Oliver appeared before the Board and apologized for missing the last meeting, explaining that she had thought it was on a different date. She stated that when she originally received the ACO she did not realize that it had to be registered right away. She filed the document with her other papers document. She contacted Brian Carlson because she has not been able to locate it.

Mr. Phillips explained that this was a deed restriction that needed to be filed within 30 days. The original ACO was approved in February 2012. He added that Mr. Carlson did not have any issues with the re-approval.

**Motion:** *To re-sign the ACO for 2 Bradford Street.*

**Motion:** Ken Janson

**Seconded:** Dr. Janet Whelan

**The motion was passed by unanimous vote 3- 0**

**D. Appeal Request - Letter to Camp Lightbulb**

Mr. Phillips explained that Ms. Clark has been working on a letter to the parents of the campers who either attended or were scheduled to attend Camp Lightbulb this summer. She had requested the name and addresses of these campers from Mr. Markham the camp director.

Gordon Markham was present and questioned the timing and the content of the letter. At the last meeting he had before the Board the shut down order was discussed and he complied with the termination order. He was of the understanding that he could work on reapplying for a license for next year.

Mr. Phillips explained that the process and how to notify parents has been under discussion at a couple of meetings since August. The process takes a while because it has to be reviewed by town Counsel.

Mr. Markham responded that at the meeting in August no mention was made of a letter. He didn't know that at some later date a letter might come.

Mr. Phillips stated that it is within the prerogative of the board to send a letter. Mr. Markham thinks that the letter is not very balanced and there should be an opportunity for his input. Mr. Phillips said Mr. Markham could take the opportunity to send out his own letter to the parents to explain his perspective, if he wished.

Mr. Markham asked about calls being made to his funders by a Board of Health official informing them that they were affiliated with an unlicensed camp. He does not understand the process. He wasn't aware that there has been an ongoing discussion about Camp Lightbulb.

Mr. Phillips explained that the Board decided under "full disclosure" that parents should know that there was an issue last summer.

Ms. Clark stated that it was discussed at Board meetings that the Department of Public Health expected some sort of resolution. The board decided that at bare minimum that parents should know that the camp that their children attended was not licensed and they should always look for specific language that the camp is licensed by the local board of Health. This had been discussed only at public meetings by the Board. As far as the phone calls are concerned, she was instructed by the Board of Health to contact the Department of Public Health to determine why they had funded a camp that did not follow their own regulations. She called the Community Health Center of Cape Cod to inform their CEO that funding went to an unlicensed camp because they have an upcoming audit.

Mr. Phillips stated that Mr. Markham was not directly notified because it does not have to do with his organization per se. It has to do with the Board notifying the parents of the action already taken by the Board. It is not a discussable matter. If it had been new action being taken he would have been notified. This was not a new action; it was a follow up to a previous decision.

Mr. Markham asked if there was no process for him to comment on the content of the letter? Mr. Janson stated that everything goes through town Counsel. Mr. Markham asked for the Counsel's name. Mr. Phillips said he could contact Town Counsel if he liked.

Mr. Phillips stated that in order to be clear he was making the following motion:

***Motion: That the Board of Health order Mr. Markham, as a representative of Camp Lightbulb, to provide the names and addresses of the campers that attended the camp or were scheduled to attend the camp this summer to the Health Department within 7 days of today's meeting. If this does not occur then the Board of Health will impose criminal fines of \$500 per day.***

**Motion:** Mark Phillips

**Seconded:** Dr. Janet Whelan

**The motion was passed by unanimous vote 3-0**

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

Morgan Clark referenced the reprint of Chapter 111, Section 26 included in the Board's information packets. Section 26 details what Mass. General Law has to say about the make-up of city Boards of Health and specifically that one member should be a physician. At the previous Board meeting when discussing the Charter Review, the Board questioned what type of health professional the Town Charter was asking for. Mr. Phillips suggested that this topic should have been put under Old Business and asked that it be posted for the next Board meeting that way.

### **Approval of Minutes**

**August 28, 2013**

***Motion: Move to approve the minutes of Thursday, August 28, 2013***

**Motion:** Mark Phillips

**Seconded:** Dr. Janet Whelan

**Vote: 3 - 0**

**September 5, 2013**

Mr. Phillips noted that September 5, 2013 was the first time that the board had discussed a letter to the parents of Camp Lightbulb. This was the first meeting after the special meeting of termination of the camp.

**Motion:** *Move to approve the minutes of Thursday, September 5, 2013*

**Motion:** Ken Janson

**Seconded:** Mark Phillips

**Vote:** 3 - 0

### **Health Department Report**

Ms. Clark informed the Board that it is annual inspection time for year round restaurants. She has been doing a lot of inspections along with the fire and electrical inspector. She has also planning for emergency preparedness and the distribution of KI. The distribution date is December 10, 2013 from 9:00 to 4:00 at the VMCC in conjunction with the COA. Some proof of residency is required.

She continues to take part in training about hoarding along with the COA outreach coordinator. It was about hazardous materials and situations one may encounter. She has been trying to get as much information as she can.

Brian Carlson has been working on information about beach closures. Brian is also following up on the Conwell Street property that the Board recently asked about.

The newest Board member, Steve Katsurinis, who is waiting to be confirmed by the Selectmen and sworn in introduced himself to the Board.

### **Board Members' Statements**

There were no statements made by the board members

### **Adjournment:**

There being no further business, Mark Phillips moved to adjourn the meeting at 4:55 pm.

Respectfully submitted,

Susan Leonard

**Approved by \_\_\_\_\_ on \_\_\_\_\_, 2013**