

Terri A. Guarino
Health Agent

TOWN OF BOURNE BOARD OF HEALTH

24 Perry Avenue
Buzzards Bay, MA 02532
www.townofbourne.com/health
Phone (508) 759-0600 ext. 1513
Fax (508) 759-0679



RECEIVED
2019 AUG 22 AM 9:11
TOWN CLERK BOURNE

MINUTES August 5, 2019

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

Support Staff in attendance: Terri Guarino, Health Agent; Carly Cote, Health Inspector; and Syreeta Amaral, Administrative Assistant.

Meeting was called to order at 5:04 pm

Michael Rausch and Beth Treffeisen acknowledged they were recording.

- 1. Scenic View Motel—871 Scenic Highway—AJ Michael Realty LLC--Discussion and possible vote to pursue any/all statutory remedies for ongoing violations and noncompliance with Bourne Board of Health orders and directives. Penalty for failure to comply with orders pursuant to the State Sanitary Code, 105 CMR 410.910-920, M.G.L. c. 140, §32E, and Board of Health Regulations.** Mr. Barlow stepped off for this agenda item. Ms. Vickie Brady, was present and stated that she has been the live-in manager for the past 22 years and she is currently the caretaker for the property. The owner, Dennis Waitekunas, was not going to reopen, therefore Ms. Brady explained that she has not done anything to the rooms. Ms. Brady admitted that she was letting her brother-in-law live in one of the rooms before he passed. Chairwoman Peterson regretted that Mr. Waitekunas was not more involved or responsive. Chairwoman Peterson asked Health Agent, Terri Guarino, to discuss the penalty for failing to comply with the March 6, 2019 BOH meeting vote suspending the license to operate the Scenic View Motel. In that time period, a zone change was proposed. Originally, in the order dated March 8, 2019, Ms. Brady was allowed to remain on the premises despite the 90 day license suspension for failing to comply with the Bourne Board of Health meeting vote. Ms. Guarino stated that Ms. Brady remained as the live in manager to facilitate contractors to make necessary repairs to the establishment. She stated that essentially no repairs or corrections had been made. Then went on to elaborated that if the structure were to deteriorate further, it would need to be vacated, as detailed in the March 8, 2019 order. Ms. Guarino explained that the goal of this was to help promote public health by correcting ongoing violations. As of most recently, an order was issued as advised by Town Counsel, which deemed the structure unfit for human habitation. She stated that the property was ordered to be vacated and secured. The motel does not meet the minimum standards of fitness for human habitation. These are ongoing violations that have not been corrected for years by the owner. Ms. Guarino said that despite many attempts to contact Mr. Waitekunas, the Health Department has not received a response regarding this motel and the severity of the situation. To her knowledge, there are still occupants. The occupancy permit was revoked by the Building Inspector. She also elaborated that the property is not adequately secured. Health Inspector, Carly Cote, and Building Inspector, Roger Laporte, had gone out to the property on July 23, 2019 to make sure all doors were locked. On July 24, 2019, Carly Cote and Terri Guarino visited the property again and a couple rooms were not secured. Ms. Guarino noted that the odor was so bad from one of the rooms that it was noticeable outside of the door. The interior of the room was covered in mold. She was unsure why anyone would unlock it, but reiterated that the rooms are not properly secured. Ms. Guarino advised that no one

should be even walking into these rooms due to the smell that is so potent. "Even just air quality wise, this is a significant concern to have anyone even step foot in there. It looks like there are some structural issues with the roof or ceiling that have developed since the property has not been maintained since March," said Ms. Guarino. Ms. Peterson explained that they only had 90 days since March 8, 2019 to correct these violations so that "null and voids anything that was awarded back then." Ms. Peterson explained that under Section 4 of the Bourne Board of Health Hotel, Motel and Guest Cabin regulations, no one shall operate a hotel or motel without a license. At least three people were staying in this motel during license suspension. The fine for that is anywhere from \$10.00 to \$100.00 dollars per day. Ms. Guarino confirmed this. Ms. Peterson elaborated upon State Sanitary Code 105 CMR 410.910. Violations for this could be fined anywhere between \$10.00 to \$500.00 dollars per day. Ms. Peterson asked how many days it had been since March 6th. Ms. Peterson asked Ms. Brady if she has been looking for places to stay. Ms. Brady responded that she is trying. She stated that she does not have any money, and has been turned away. Ms. Brady signed up with the senior center housing but there are currently no openings. Ms. Brady stated that she has not rented or let anyone else stay other than her brother-in-law. Ms. Brady explained that she has gone into all these rooms and stated that they are extremely hot because all the windows are locked so no one can get in. She stated that no one has gotten into these rooms and questioned the Health Agent's information. Ms. Peterson acknowledged that Ms. Brady's brother-in-law was staying in one of the rooms, and apologized for his passing, but reiterated that he was still staying in one of the rooms. Ms. Brady questioned several more claims by the Health Agent. Ms. Peterson explained that these have been long standing violations. Ms. Brady questioned why they have not been shut down before if these violations have gone on for years. Ms. Brady commented on the drug problem getting worse and having "druggies" stay at her house. Ms. Peterson clarified that the Scenic View Motel is not her house; she is an employee. Ms. Brady explained that she is no longer an employee because there is no more business, she is the caretaker. Ms. Peterson explained that there will be no more caretaking because the structure has been ordered unfit for human habitation, including where Ms. Brady is staying. Therefore, Mr. Waitekunas needs to provide a place for Ms. Brady to stay in the interim. Ms. Brady exclaimed that she could not. Ms. Peterson apologized and explained that she would need to forfeit the animals and move into a place that Mr. Waitekunas will pay for. Ms. Brady said, "I can't and I won't." The Board determined it had been 151 days since March 7th, when the property was first ordered to be vacated. Ms. Peterson explained the first fine could entail \$15,100 at \$100.00 per day. The Board further determined that it had been 13 days since the property was deemed unfit for human habitation. Mr. Andrews calculated that fines could range from \$130 to \$6,500 as of today. Mrs. Kelly Mastria inquired why the structure has not been further secured or boarded up. Ms. Guarino and Mr. Andrews explained that it was ordered to be secured on July 24, 2019. Mrs. Mastria stated that she understands "secured to be locked, but boarded up means boarded up." Ms. Peterson asked if the Board of Health could order them to board up the property. Mr. Andrews stated that the Board of Health could order it. Ms. Guarino responded that it has already been ordered for the property to be secured. She stated that one of the rooms would need to be boarded up, but she does not know if it is necessary for all of the rooms to be boarded up in that manner. Ms. Guarino explained that it is up to the owner's discretion and that most of the doors can be secured from the exterior. "If no one was living there, no one would be able to access or unlock the doors," said Ms. Guarino. Ms. Peterson stated that she would like some type of barrier put up in front of the property so that no one could enter or leave the property. Mr. Andrews stated that barriers would make it more of a hindrance for safety personnel to get into the property. Ms. Guarino stated that the Health Department could at least ask. Mr. Andrews stated that his concern is that Ms. Brady is unable to be a representative for the owners, because she just stated she no longer works for them. Ms. Brady clarified that she is hired by Mr. Waitekunas as the caretaker. Ms. Peterson responded that Mr. Waitekunas has been notified that he can no longer have anyone staying at the property, therefore, if Mr. Waitekunas would still like Ms. Brady to be the caretaker, then he will have to put her up elsewhere. Mr. Andrews reiterated that there is no one to be residing in that property. Ms. Brady stated that she had no place else to go and would stay there until she can sell her things and go. Mr. Andrews explained that Ms. Brady did not need to move all of her belongings out, just herself. Ms. Brady stated, again, that she would be staying there tonight. Mr. Andrews explained that it would be a direct violation of the order. Ms. Brady stated that the Board was "ruining her life" and left the meeting. Ms. Peterson inquired on what remedies Town Counsel could take. Ms. Guarino encouraged that any and all remedies should be taken and that fines are just one option. Mrs. Mastria stated

that the property owner needs to be paying attention to this matter. Mr. Andrews concurred that the lack of communication from the property owner was discouraging. Mrs. Mastria sympathized with Ms. Brady and stated that it is the property owner's responsibility to remedy this. Mrs. Mastria stated that if the property owner will not accept this responsibility, then the Board needs to take any and all measures afforded to fix this ongoing situation. Ms. Guarino said that any discussion of specific measures to take should be addressed in executive session and not open session. Ms. Guarino said that counsel did suggest fines as a first step. **Mr. Andrews moved to fine the owners of 871 Scenic View Motel \$100.00 dollars per day as of March 7, 2019 for the violations of Section 4 of the Bourne Board of Health Hotel, Motel, and Guest Cabin Regulations and MGL c. 140, § 32E and \$500.00 dollars per day as of July 24, 2019 for violation of the State Sanitary Code 105 CMR 410.910, until the property is secured and vacated. Additionally, Mr. Andrews motioned for the Agent to take any/all legal remedies and to keep the Board apprised of this process. Ms. Peterson added the fine amount as of today which will accrue daily. Mrs. Mastria seconded the motion. All in favor and the motion passed, Mr. Barlow abstained from voting.** Barbara Jacobson asked for clarification on who is the owner of the property. She stated Mr. Waitekunas is in Florida and doesn't care.

2. **25 Phillips Road—Timothy Traub, Trustee of 25 Phillips Road Realty Trust—Requesting hearing in response to Board of Health meeting vote on July 24, 2019 deeming three nonconforming sewage disposal systems on property to be in failure.**

Mr. Barlow stepped back onto the Board for this agenda item. No representative present for this agenda item. **Mrs. Peterson made a motion to sustain the Board of Health meeting vote from July 24, 2019 that the three nonconforming sewage disposal systems on the property are failed systems. Mr. Barlow seconded the motion. All in favor and the motion passed.**

3. **Parrot Bar and Grille—1356 County Rd— Brian Crocker and Tracey Dunnington, Owners— Permit to operate a food establishment summarily suspended on August 2, 2019 due to existence of imminent health hazards not corrected prior to re-inspection. Hearing in accordance with 105 CMR 590.014-015, to discuss and possibly vote on penalty for failing to correct and comply with the minimum standards of food establishments, 105 CMR 590.00, and whether or not to reinstate food permit.**

Mr. Barlow stepped off for this agenda item. Owners Brian Crocker and Tracey Dunnington, as well as Mike Ball, who works in the kitchen, were present to discuss this matter. Ms. Peterson asked the Health Agent to bring the Board up to date on the most recent developments regarding the Parrot Bar and Grille. Ms. Guarino stated that a routine inspection was conducted by Health Inspector, Carly Cote, on August 1, 2019. This inspection revealed several violations related to Foodborne Illness, specifically refrigeration failure. Ms. Guarino explained that this violation needs immediate correction and the owners voluntarily disposed of the food that was not properly refrigerated and closed the operation of the kitchen for that evening. When a re-inspection was conducted the following day, there were still refrigeration issues that were still not addressed as well as additional violations that remained. The food permit was suspended over the weekend until the hearing. Mr. Andrews asked for inspection reports. Ms. Guarino stated that they were attached to the packets provided to the Board of Health Members. Ms. Peterson asked about additional paperwork that the Parrot Bar and Grille may have provided. Ms. Guarino explained that during the previous inspection on August 2, 2019, she had asked for a pest control report and contract. Additionally, Ms. Guarino discussed obtaining ServSafe and Allergen Awareness certifications for the employees. Lastly, Ms. Guarino asked for a limited menu, refrigeration logs, and cleaning lists. Mr. Crocker stated that he had forwarded the Griggs and Browne Pest control contract to the Health Department and also submitted a copy to the Board. Mr. Crocker also presented Mr. Ball's and another cooks Allergen Awareness certificate, as well as the vomit and diarrhea clean-up procedure. Mr. Crocker stated that he had started a refrigeration log, as well as cleaning lists but the printer had run out of ink before the meeting. Mr. Crocker summarized that Barret Plumbing and Heating replaced bushings on the walk-in refrigerator door and replaced the handle, and O&S Plumbing and Heating repaired refrigeration to limit the defrost cycle. He stated that the refrigerator issues have been rectified and seem to

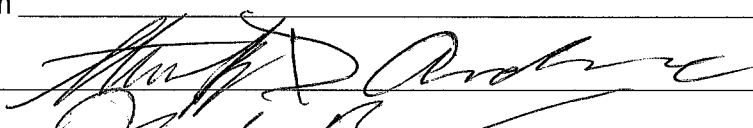
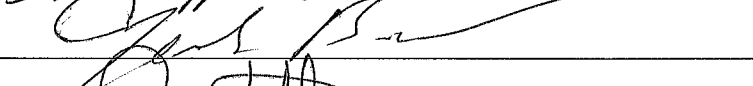
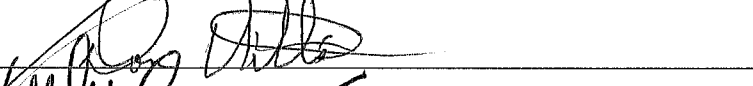
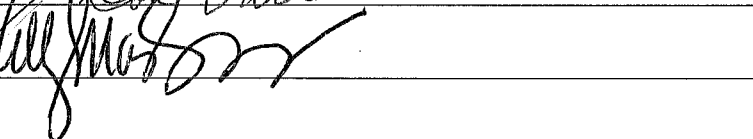
hold cool temperature. Mr. Crocker also detailed the cleaning and sanitizing that they have accomplished over the past few days. Mrs. Peterson asked if the owners had any pictures of the cleaned establishment. Mr. Crocker said that he did not, and had hoped that the Agent or Inspectors could have gone to the Parrot Bar and Grille earlier in the day. Chairwoman Peterson responded that the Health Department had been hoping to get new paperwork before the meeting. Mr. Crocker explained that he had not wanted to set up an inspection before all violations were completed. Mr. Crocker continued to summarize the progress made, and also stated that he had purchased the hand sanitizer that Ms. Guarino had recommended. Mrs. Mastria inquired about evidence of pests. Ms. Guarino stated that there were droppings observed. Mr. Andrews asked what the pest control report stated. Health Inspector Carly Cote stated that the report detailed the parameters of the contract and also found evidence of mice and/or rats. Mrs. Mastria asked Ms. Cote about the cleanliness during the time of inspection. Ms. Cote stated that, in summary, the establishment needed to clean and sanitize both food contact and non-food contact surfaces, but as discussed, the major area of concern was the refrigeration. Ms. Peterson observed that there were 18 critical violations found on the inspection report. Ms. Peterson stated that her issue is that restaurants who pass inspection without any violations do not get recognition. Ms. Peterson said that 9,500 people died of Foodborne Illness last year coming from a restaurant and that the number is probably higher. She continued that it is extremely severe to not have a clean kitchen and that the Parrot Bar and Grille has gone through this before. Mrs. Peterson asked if the owners were prepared to take on the responsibility of cleaning up the kitchen and do it correctly. Mr. Ball stated that the biggest issue that they have faced was keeping the refrigeration temperature up, even though they have replaced units. Mr. Ball said that the inspection on August 1, 2019 was right after the lunch rush and had not had a chance to wipe the counters down. He explained that he had been in the restaurant business for 43 years, had run numerous kitchens and had dealt with several Board of Health's without any issues. He continued that he had not made anyone sick and that the Health Department had not received a foodborne illness complaint from the Parrot in many years. Mrs. Peterson asked him to stop because the Parrot did have a very serious food complaint. Mr. Ball stated that he was unaware of this complaint. Mr. Andrews stated that the first report from August 1, 2019 had 13 violations that had to be corrected within 24 hours. Mr. Andrews asked if all the violations were corrected when the Health Department re-inspected on August 2, 2019. Ms. Guarino said no. Mr. Andrews explained that any twenty-four hour violations should be a priority and completed before anything else. Not repairing or correcting them in that time frame does not show the commitment needed. Mr. Andrews stated that he has a very hard time looking at even issuing a conditional license, seeing that the Parrot had that many violations that were not addressed within the twenty four hour period. Mr. Crocker explained that they had tried their best and that someone was there until 1:00 am trying to correct these violations. He stated that it was not up to par, but he does not want to Board to think they did not try. Mr. Andrews said if you are not able to correct these violations, then keep the establishment closed and let the Health Department know. Mr. Crocker stated that he had people working the very next morning. Mr. Andrews reiterated that they still were not corrected. Mr. Andrews asked for a copy of the original inspection. Ms. Peterson said that the Board recently let another restaurant go too long with similar issues and that the Board could not let that happen again. Mr. Andrews explained that at the first of year the Board invited all the restaurants in town to a meeting to explain new federal regulations. He continued to say that the office is really good at helping the restaurant through things, "if you have a question, you call them." Mr. Andrews read through old inspections, commenting on repeat violations. Mrs. Peterson asked if the owners would be able to reach strict standards if the Board granted a conditional permit. Ms. Peterson also mentioned instituting a letter grade system for restaurants. Ms. Peterson further inquired if the owners would even be interested in meeting the strict standards that would be outlined in a conditional permit. Ms. Peterson further explained that they would need to meet the conditions of the provisional permit or else the permit would be revoked on site. Mrs. Mastria asked how it got to be this bad and if they had any procedures to clean at the end of shifts. Ms. Dunnington stated that they did have procedures. Mrs. Mastria inquired if the owners had realized that the cleaning being done had not met standards. Ms. Peterson asked if they had brought the cleaning procedures. Ms. Dunnington said they did not bring them. Ms. Peterson elaborated that the owners were coming in front of the Board to find out whether or not they could keep their operating license or not. Ms. Dunnington explained that the printer had run out of ink. Mrs. Mastria asked about cleaning standards again. She inquired how the establishment got so dirty. Mr. Crocker said it's likely due to people not doing their jobs, that there needs to be more training, and that they

have issues keeping employees. Mrs. Mastria summarized that it sounded like the process got away from the owners and that they needed to start with a clean slate by re-staffing and revamping. Mr. Andrews said that he noticed a road map of all of these repeat violations based on the past inspection reports. He stated that after being issued a copy of any one of these reports, the owners should not want to serve food to the public. Mr. Andrews stated that they needed to figure out a way to maintain their facility while still operating a business. He explained that the owners and the kitchen management need to be chasing these violations down. Correcting violations should be the highest priority the second the Health Department leaves. Mr. Andrews inquired how long they have been working on refrigeration issues. Mr. Ball responded over a year. Mr. Andrews explained that this is where temperature logs play a very important role. Mr. Andrews stressed the importance of effectively managing the restaurant in order to provide a safe product for the public. Mr. Andrews said that does not support a conditional at this time without seeing all the documentation that was requested by the agents. Mr. Andrews elaborated on several repeat violations, including food on the ground, as well as the mislabeling of food products. Ms. Peterson asked about the new labeling system. Ms. Cote explained that some items were labeled during the August 1, 2019 inspection, but many items were not. Ms. Guarino explained that many items were also improperly labeled. Mr. Ball stated that they purchased food labels. Mrs. Mastria explained that it may be time to go back to the drawing board on the way the business was run. Mr. Crocker stated that he did have some more paperwork and Mr. Andrews encouraged him to present anything he had. Mr. Crocker explained that they had started a temperature log, power washed areas of the property, labeled items throughout the restaurant and that ServSafe will be conducting a training on August 11, 2019 at the Parrot. Ms. Dunnington said that all employees are also completing allergen awareness training. Mr. Andrews explained that he needed to hear these things in order to make an informed decision regarding their permit. Ms. Dunnington also explained that the refrigerator issues were solved by O & S Plumbing. Mr. Crocker reiterated again that he did not want to call the office for an inspection until all items were completed. Mr. Uitti asked how many more violations the owners have to correct. Ms. Dunnington said that they had to paint the floor in front of the walk-in and then the list of violations would all be corrected. Ms. Guarino clarified that the floor is unfinished concrete so it needs to be sealed. Mr. Crocker stated they also bought more Purell, sanitizer and thermometers. Ms. Peterson said that at any clean restaurant, the chef will have a draw full of thermometers. Ms. Peterson further explained that it is the middle of summer and that the Parrot has had notices on their doors all weekend. Ms. Peterson said she is in favor of a 45-day conditional permit. Mrs. Mastria asked if a draft conditional license was available. A copy of the conditional license provision was presented to the owners. Ms. Guarino clarified that she did not make the owners purchase any specific items, rather recommended helpful products to improve their operation. Mr. Andrews thanked her for clarifying the record. Ms. Peterson added that Federal and State food regulations would also need to be followed in addition to the provisions on the license and that no violations could be found during inspections or else the license would be terminated. Mrs. Mastria emphasized item number 8 on the conditional permit which outlines that if the restaurant is having any issues going forward, to contact the health department immediately. Ms. Guarino gave an example by saying if 75% of refrigeration units are down, call the Health Department. Mr. Crocker said that this would be possible and keeping in contact with the Health Department is key. Ms. Peterson stated that she thinks the Parrot deserves one more chance and asked the owners to not repeat this again. Mrs. Mastria explained the standard that the Board of Health sets. Ms. Peterson stated that years ago, the food code was different and the Board of Health asks the Health Agent and the Inspectors to make sure that the restaurants in town are up to code. Mr. Uitti asked when this could be effective and Ms. Peterson said after passing a pre-operational inspection. Mr. Andrews said he would be more comfortable with a 30-day conditional permit. Mr. Andrews explained that he would be in favor of a permit that starts today, but the Parrot Bar and Grille would only open if they passed a pre-operational inspection. **Mr. Andrews made a motion to issue a 2019 Conditional Food Permit for the Parrot Bar and Grille for 35 days or to expire on September 12, 2019 contingent on a pre-operational inspection, unless sooner suspended or revoked. Mr. Uitti seconded. All were in favor and the motion passed.** Mr. Ball asked for clarification if they need to come back for the September 11, 2019 meeting and to that Mr. Andrews answered, yes.

4. **Approve the Minutes—** Approve the minutes from the previous meeting dated July 24, 2019. The meeting minutes were not reviewed so Mrs. Mastria made a motion to move it to the next meeting. Mr. Andrews seconded. All in favor and motion to continue passed.
5. **Set tentative date for next meeting and adjourn.** There is a joint session of the Finance Committee, Landfill Working Group, and Board of Health scheduled for August 12th at 7:00 PM at the Bourne Middle School. The next regular meetings are scheduled for August 21, 2019 and September 11, 2019 for the Board of Health.

Mr. Andrews made a motion to adjourn the meeting. Mr. Uitti seconded. All were in favor and the meeting adjourned at 6:17 PM.

Taped & Typed by Terri Guarino, Health Agent and Carly Cote, Health Inspector

Kathleen Peterson _____
Stanley Andrews  _____
Galon Barlow Jr.  _____
Don Uitti  _____
Kelly Mastria  _____