



Terri A. Guarino  
Health Agent

# TOWN OF BOURNE BOARD OF HEALTH

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## MINUTES May 31, 2017

RECEIVED  
2017 SEP 28 AM 8:38  
TOWN CLERK BOURNE

**Members in attendance:** Kathleen Peterson, Chairperson; Galon Barlow Jr.; Don Uitti and Kelly Mastria

**Support Staff in attendance:** Terri Guarino, Health Agent; Jamie Butler, Health Inspector; and Meghan McLean, Secretary

### MEETING WAS CALLED TO ORDER AT 7:03 pm

- 1. Bay Motor Inn—Fred and Irene Carbone, owners—Request for relief from Section 9 of the Bourne Board of Health Hotel, Motel, and Guest Cabin Regulations. Discuss and possible vote to allow pet friendly rooms. Mr. Barlow recused himself from this discussion.** Irene and Fred Carbone were present to represent the Bay Motor Inn. Ms. Guarino explained that the Health Department received a request from the Carbone's to allow pet friendly rooms at their establishment. For 52 years, they have always allowed pets in their rooms at the Inn, and they wish to continue to do so. Ms. Guarino also stated that they currently have several efficiency units and cottages to accommodate this request, and they are in full compliance with the new regulations set by the Board on January 26, 2017. Mrs. Carbone stated that she prefers to keep every room pet friendly. She listed all of the types of rooms available at their establishment and does not want to limit any certain room to a designated pet friendly room. They have reservations in place currently that are recurring tenants each year, and keeping all rooms pet friendly will satisfy the requests of each guest individually. They currently have pet policies in place. Ms. Peterson stated that in a letter sent by Mrs. Carbone, she stated that damage does not concern the Board of Health. She stated that everything involving Public Health concerns us. We understand they are in compliance with the regulations, but that can and would be an issue with us if it wasn't taken care of. Irene states that they would not rent the room that had an issue until it was completely corrected. The only occurrence they've ever had were from sand fleas from the beach. Gary Maloney, citizen of Buzzards Bay, asked if there are any other waivers requested from other establishments. Ms. Peterson clarified that this is the first waiver that has come before the Board. Mr. Maloney explained that Bourne already has a regulation in place stating that only service animals are allowed in tenant rooms. Ms. Peterson explained that there is a new Board of Health Regulation dated January 26, 2017 and the reason the Carbone's are here is to request a waiver. She also explained that this year is the first year that the Bay Motor Inn has been in an agreement with Massachusetts Maritime Academy to provide housing for the winter. Mr. Maloney asked about the 90 day time frame and how it affects the Mass Maritime agreement. Ms. Peterson said that the Board has previously discussed this. Ms. Guarino added that as of tonight's meeting, the Bay Motor Inn has not renewed their license for the upcoming season yet due to the MMA agreement still being effective. With the summer season coming and the end of the agreement with MMA near, their license from the Board of Health will soon be issued. Mr. Maloney asked where the line is drawn with how many waivers are allowed in



the Town of Bourne at one time. Ms. Peterson stated that it is determined on a case by case basis. Ms. Mastria explained that there needs to be complete compliance and establishments go through a strenuous process in order to request a waiver. Mr. Maloney asked when the last Fire Department Inspection was, and if the Inn rooms have any hot plates. Ms. Guarino reviewed the file and stated that the last Fire Inspection was on August 15, 2016. Their agreement with MMA ends June 15<sup>th</sup>, so they anticipate opening to the public by June 24, 2017. Fire Inspections are on an annual basis. Hot plates are not permitted but the Bay Motor Inn has many efficiency units with stoves/ ovens. Ms. Peterson asked if there were any further questions from the audience, and ensured with Mr. Maloney that the Board has answered all of his questions in their entirety. Mr. Maloney stated that he had no further questions, and appreciated the time to clarify his concerns. **Ms. Mastria made a motion to grant relief from section 9 of the Board of Health Hotel & Motel Regulations to the Bay Motor Inn. Mr. Uitti seconded the motion, and the vote was unanimous.**

2. **354 Circuit Ave—CONTINUED from May 17, 2017-- Zenith Consulting Engineers, LLC on behalf of The Estate of Carol S. White—Discuss and possible vote on variances and local upgrade approvals requested from provisions of 310 CMR 15.00 Title V and Local Regulations.** Zenith Consulting requested to be heard at the next meeting and withdrew their request without prejudice. This is on file with the Health Department. Ms. Peterson stated that the Board will continue this item until the next Board of Health Meeting on June 14th.
3. **Jasper's Too Motel---Discuss and possible vote in regard to inspection from May 17, 2017 and violations of the Board of Health Hotel, Motel, and Guest Cabin Regulations. Mr. Barlow recused himself from this discussion.** Judith Tubbs, owner of Jaspers Too Motel, was present. Ms. Guarino stated that on May 17<sup>th</sup>, Jamie Butler conducted an inspection. There were violations addressed at that time, some of which were repeat violations. In January 2016, this establishment was brought before the Board regarding multiple violations such as tenants' length of stay. Upon her inspection on the 17<sup>th</sup>, Ms. Butler found that the log book was not being maintained properly and there were pets being kept in room number six without a waiver. Given that these are repeat violations, and that Mrs. Tubbs was present when the hotel/motel regulations were amended, it was essential to bring these issues before the Board to discuss. Ms. Peterson asked if these violations have been corrected since Ms. Butler inspected. Mrs. Tubbs stated that corrections have been done, however there has been no reinspection. Ms. Peterson stated that Jasper's Too Motel does not have a waiver for pet friendly rooms, therefore there should be no pets staying on the property. Ms. Tubbs stated that she did not have pets staying there, and that the dog Ms. Butler saw during her inspection was a service dog belonging to a man that was visiting his son. Ms. Peterson explained that these violations need to be corrected immediately, and inquired when the estimated date of completion of improvements would be. Mrs. Tubbs stated that many violations have already been corrected, and have not been inspected yet. Ms. Mastria stated that the biggest problem is that the log book and record keeping has not been maintained properly. Ms. Tubbs stated that she does not reside on the property, but she does stay locally for any need that arises at the motel. She stated that she has redone and improved the log in sheets, and on the back of the check-in cards there is now an allotted line for "tentative out date". She explained that the tenant in room number six was injured and his insurance was paying for the motel room, and his extended stay was unknown to her. Mrs. Tubbs confirmed that this tenant will be leaving on Friday, June 2, 2017. Ms. Butler explained that her recent inspection confirmed that the hotel is being maintained, and that the problems she found were mostly wear and tear problems. She explained that looking through the log books for the past weeks, she noticed many repeat names signing in and out of the motel for at least 5 weeks prior to her inspection. Ms. Mastria suggested assessing a fine to the motel, or property manager, for multiple violations of the record keeping. Mrs. Tubbs presented an updated log in sheet and asked if the improvements would be acceptable to the Board. Ms. Peterson explained that there are many departments that are closely watching for long-term rentals in town, and stated the log book is extremely important. With the Board helping her in the past, Ms. Peterson felt that this establishment should not be here again. Ms. Guarino stated that she was hoping the person responsible for record



keeping was here to be held accountable, and to listen to this hearing and understand the importance of good record keeping habits. If the rooms are not being rented for extended periods of time, there should be no reason for inaccurate records. Mrs. Tubbs said that the person responsible is not a manager, and just gets paid hourly. Ms. Mastria asked if we could implement a short-term policy for record keeping. Ms. Guarino read the Hotel/Motel Regulation § 5 and stated that 'Every person who owns, manages or operates a motel, hotel or guest cabin shall maintain an up-to-date guest register containing each guest's name, permanent residence address, date of registration, date of check in & check out, and telephone number. Said information should be verified by viewing a photo ID of each guest. The date of check out shall be logged at the time of registration. Verifiable business travel may be exempt from occupancy time frames in Sections 6 & 7. Such register shall be made available for inspection to the Board of Health, its agent, or a police officer immediately upon request.' Ms. Mastria suggested that the Board should set a procedure to ensure compliance with record keeping. Ms. Peterson stated that there is a guest section in the new Hotel Regulation explaining such requirements, and that Mrs. Tubbs knew she was in violation by letting the guest in room number 6 stay longer than allowed without keeping logs to verify dates of stay. Mrs. Tubbs cannot have guests stay without logging them in, and must not stay beyond the allotted amount of time without a waiver from the Board of Health. She explained that she must contact the Health Office with information regarding extended visits such as reason for visit, name, dates of arrival and check out. Ms. Guarino stated that she agrees with what Ms. Mastria suggested about possibly having the Motel's logs sent to the Health Office for review, ensuring compliance. Ms. Mastria stated that this may be effective for a certain amount of time until the establishments that are in violation can get into good record-keeping habits. Ms. Peterson explained that the Board has made allowances for business guests within the new Hotel Regulation that would allow guests to stay without a hearing before the Board as long as all information was submitted to the Health Office. Mrs. Tubbs asked if she was obligated by law to rent to a potential tenant with a service dog. Mr. Maloney, from the audience, claimed that you cannot ask for documentation of a service dog. Ms. Peterson clarified that service dogs are entirely different than dogs that are visiting. Ms. Guarino stated that Massachusetts State Law allows you to ask if a pet is a service dog, but you may not ask what the individual's disability is. Mrs. Tubbs said she would like to have some of the rooms pet friendly in the future. Ms. Peterson stated that Mrs. Tubbs should get her logs in order prior to inquiring about a pet friendly waiver. Ms. Peterson asked for further public comments, of which there were none. **Ms. Mastria made a motion to take no action on Jasper's Too Motel pending correction of violations from May 17, 2017. Ms. Peterson asked the Board if everyone was comfortable with this decision and if anyone wanted to second the motion. Mr. Uitti seconded, and the vote was unanimous.**

4. **Scenic View Motel—Discuss and possible vote on noncompliance with Board of Health Hotel, Motel, and Guest Cabin Regulations, and orders dated January 13, 2017, February 21, 2017, and May 17, 2017. Mr. Barlow recused himself from this discussion.** Vickie Brady, the live-in manager of Scenic View Motel, was present. Ms. Butler stated that a re-inspection was conducted today 5/31/2017. The roof to the main house and the roof to efficiency unit number twelve are still not corrected. It was not able to be verified whether there were still rodents present in unit number twelve as well. There were ant traps set on the property, and through speaking to Ms. Brady understood that she received a quote from Griggs and Browne for pest control but did not secure a contract with them. Ms. Brady and others applied their own pesticides to the exterior of the dwellings, but do not have a contract with a licensed pest control company. All other violations from May 17, 2017 have been corrected, excluding unit twelve needing a light switch and rooms 10 & 11 need no smoking signs. Ms. Brady stated that she purchased Raid for spraying inside and outside of cottages to rid them of carpenter ants, and she has the no smoking signs they just need to be hung up. She presents one proposal to fix the roof, but explained that every contractor she has spoken to says they will come take a look at the roof and never actually show up. She had another contractor come to the property today to inspect the roof, but due to the inclement weather they could not complete the inspection. Ms. Peterson asked Ms. Brady if the owner of the property, Dennis Waitekunas, was helping her complete these improvements. Ms. Brady stated that he told her that she must make all the calls because he no longer has contacts in



Massachusetts while he resides in Florida. She stated that everyone she has called is booked until July. Ms. Peterson asked if Mr. Waitekunas was allowing her the proper funds to complete these improvements in his absence. Ms. Brady responded that he said he will send a check to the company that is hired, she is not allowed to hold funds for repairs. Ms. Peterson explained that Mr. Waitekunas should be taking care of these repairs instead of being elsewhere while expecting Ms. Brady to fix it all. Ms. Guarino stated according to the assessor's database the owner of the Scenic View Motel is A.J. Michael Realty LLC, and the Health Department has Michael Joyce and Dennis Waitekunas listed as owners. Ms. Brady stated that she was told by Mr. Waitekunas that he is now the sole owner of the property. Ms. Guarino explained that according to the state sanitary code, these violations from May 17<sup>th</sup> are the owner's responsibility to address. Ms. Peterson stated that the Board does not hold the property manager responsible for correcting these violations, and are looking to Mr. Waitekunas to take care of these repairs as the owner. Ms. Guarino explained to the Board that Ms. Brady has been keeping in touch with the Health Office and making tremendous efforts, but where there is two or more units with pests, the pest control needs to be done by licensed Pest Control Company. She explained to Ms. Brady that the application of Raid is a temporary solution to the pest problem, but anything involving a pesticide application requires a licensed contractor. Ms. Guarino stated Mr. Waitekunas has a copy of the order to correct, but there has been little to no contact between him and the Health Office. Mostly, the Health Office deals directly with Ms. Brady. Ms. Brady stated that she is worried about securing a contract without having a deposit made up front, and she does not have the funds to pay one. Ms. Mastria asked where invoices for services for the property get sent, and Ms. Brady stated that everything gets sent to Mr. Waitekunas. Ms. Guarino stated that she has had minimal contact with Mr. Waitekunas and it takes extended periods of time to get a return telephone call, within which there has already been communication with Ms. Brady. Ms. Peterson stated that Ms. Brady has done admirable job with her efforts but the Board needs to speak to Mr. Waitekunas about allowing her the authority and funds to hire licensed pest control. She explained that this is not Ms. Brady's problem, it is the owner's problem and there needs to be immediate improvements or else there would be other avenues the Board would have to explore for further violations. Ms. Guarino stated that the roofing has been damaged for a number of years. There are a few separate buildings on the property, and initially the roof on the left building was repaired. Then, in 2015, the roof of the building on the right was repaired. Now, just the main dwelling and the cottage in the back need roof repairs. This is not something that should be a surprise to Mr. Waitekunas due to many years of neglect. She explained that the tarp on the building is so old that it's falling apart. Ms. Peterson asked if Mr. Waitekunas was able to be called on the phone. Mr. Maloney interjected asking if calling the owner during a meeting is the standard protocol, and if it would be done for every establishment brought before the Board. Ms. Peterson answered that it does not happen often, but as the Board of Health they have the option of contacting the owner if deemed necessary. He asked who owns the license to operate, with which Ms. Peterson responded that the license belongs to Mr. Waitekunas, and Ms. Brady is the property manager. Mr. Maloney clarified that he is just asking so he understands the procedure. Ms. Peterson noted that she is trying to contact Dennis Waitekunas, owner of 871 Scenic Highway, by phone during this meeting. Mr. Maloney interjected asking if the Board tries contacting the owner through certified mail as well. Ms. Butler stated that we have tried contacting him via certified mail. Ms. Peterson left a message stating "Dennis, this is the Bourne Board of Health. We are in a public meeting, and we are calling to have you answer questions to us about your business located at 871 Scenic Highway. Your manager is here and she is doing an admirable job, but you need to answer these questions for us. I would appreciate that we get a call back, and the number to call us back is 508-759-0600 extension 1398. We will revisit this if you should call back. If you don't, I expect you to be in touch with this office tomorrow morning at 9:00 am, and these various issues that are taking place at your business need to be corrected immediately. Thank you." She continued that within 24 hours the Board will need a pest control contract in place for the property, the tarp needs to be replaced, within 7 days there must be a written estimate for roof repairs, and within 14 days a signed contract. Ms. Peterson asked if there were any pets staying on the property. Ms. Brady explained that she only has her own two dogs living in her home with her, no guests have pets. She stated that she was planning on requesting a waiver for pet



friendly rooms for the summer, but Ms. Peterson stated that we will not be addressing that at this time. Ms. Guarino clarified that for the pest control contract, at the time of inspection room number twelve was the only room that had mice. Having this type of contract in place should be a prerequisite to maintain for this type of establishment. For example, if the mice are in room number twelve and the situation is not monitored, they will move to room number eleven and so forth. She explains that this contract should be in place for the entire facility to monitor for any future problems. Ms. Peterson apologized for having Ms. Brady be on the receiving end of this, and she truly does not want her to deal with these problems but there is no other option as of right now. Carl Shayna, a member of the audience, asked what the course of action should there be no response within 24 hours from Mr. Waitekunas. Ms. Peterson stated that she does not want to go through the options at this time, because he has time frames for completing these corrections. After 7 days if there is no response it will come back before the board and we can go over our options at that time. **Ms. Mastria made a motion to continue Scenic View Motel noncompliance with Board of Health Hotel, Motel, and Guest Cabin Regulations, and orders dated January 13, 2017, February 21, 2017, and May 17, 2017 onto the next Board Hearing tentatively dated June 14, 2017 upon completion of securing a pest control contract in place for the property within 24 hours, replacing the tarp, obtaining a written estimate for roof repairs within 7 days, and obtaining a signed contract within 14 days. Mr. Uitti seconded, and the vote was unanimous.**

5. **Talk of the Town Diner—Discuss and possible vote on violation of 105 CMR 590.000 and failure to obtain Board of Health Food License prior to opening new food establishment. Mr. Barlow recused himself from this discussion.** Kazar Keuchkarian was present. Ms. Peterson stated that she had spoken to Mr. Keuchkarian on the phone earlier today to see if he could attend, and stated that she does not like to bring businesses in the town in front of the Board because people do not understand why. She continued to explain that this establishment is in violation because it was open without a license and inspection from the Board of Health. Had the agenda not been able to be amended tonight, this establishment would not have been able to open until the next tentative meeting. She explained that Mr. Keuchkarian told her that since he had other licenses issued from other departments i.e. Selectmen, he was under the assumption that could open. Mr. Keuchkarian apologized for doing so and stated that he meant no disrespect to the Health Department. He made it clear that had it not been Memorial Day weekend, he would have waited until he got the proper license before he opened. He stated that there were many moving parts to his grand opening between staffing and incoming shipments of food that he wouldn't have had time for an inspection. He explained the efforts he has made restore this restaurant to its full potential and he is looking forward to having a good working relationship with the Health Department and the Town of Bourne. He stated that he already has establishments in Watertown and Falmouth, and knows the regulations for opening a food establishment. Ms. Guarino stated that it is appreciated that in the future, if you choose to be seasonal, please take into consideration that if the business is opening for Memorial Day weekend to submit all documents 30 days prior to that date and schedule an inspection prior as well. This is outlined in the food code. Mr. Keuchkarian stated that he will be open year round. Ms. Peterson asked if everything is in place to issue a food license at this point. Ms. Guarino said that they applied for a certificate of inspection this morning, so an inspection for occupancy will need to be done. Ms. Peterson addressed the act of opening without a license. She felt that this requires the Board to issue a fine of \$100, which is a first offense fine. She suggests that a \$100 fine per day of opening without a license be assessed. Ms. Guarino stated that she and Mr. Keuchkarian have discussed small violations prior to this meeting such as screen door, flooring, lighting and bulbs, etc. Mr. Keuchkarian stated that all corrections will be done within 7 days. Ms. Peterson asked if there were any further questions from the Board or the audience. Mr. Maloney asked if the Board of Selectman issued this establishment a license, of which Mr. Keuchkarian answered that he had a business license. Mr. Maloney stated that he is concerned that if he is being given a license by the Board of Selectman to do something, that he might find himself in



the same situation of completing the sign-off checklist, but having it lead to being brought before the Board of Health. Ms. Peterson explained that there is a checklist routed through all departments at the Town Hall which contain individual comments from each department. Mr. Keuchkarian's checklist contained a comment from the Board of Health requiring him to obtain a license to sell food and an inspection prior to obtaining a license to operate a business. She stated that Mr. Keuchkarian knew this prior to starting the process of owning this establishment. Mr. Maloney asked if this was the item that was added to the agenda today. Ms. Peterson answered that it was, and explained that as the Chairman of the Board she has the authority to do so in emergencies and asked the Health Office to amend this agenda. She stated that had she not amended the agenda so late, his business would have been closed down, and she would do that for any other business in town in this predicament. She said, "I cannot remember a day in all of my time that we have not tried to work with the people if they are willing to come in and do it." Mr. Maloney commended Ms. Peterson for that, but that public meeting laws are also important to him. Ms. Peterson stated that we have met all the public meeting laws tonight. He disagreed stating that the public should be given 48 hours' notice of an amendment. Ms. Peterson stated that there does not have to be 48 hours' notice given for an emergency. The Board of Health typically does not amend agendas that late, but the Board has the authority to do so for emergencies and we have checked to confirm that the owner could attend and had ample notice. 48 hours ago was a holiday, and this is not something that was reasonably anticipated in advance. She stated that she did not believe this violation required Mr. Keuchkarian to throw all of his food away and remain closed for the next two weeks, and that is why the agenda was amended prior to the end of day today. Mr. Maloney thanked her for clarifying that for him. Ms. Peterson asked if there was a motion to fine Talk of the Town Diner \$300 for opening without a license for 3 consecutive days, pending on the building department to sign off on his permit so the Health Department can issue a license. Mr. Uitti made the motion, and Ms. Mastria seconded. All were in favor and the vote was unanimous. Mr. Maloney stated that if he had known the Board was going to fine Mr. Keuchkarian, he would have objected to the motion. He does not believe it is fair to Mr. Keuchkarian. He claimed that Mass Maritime Academy is in violation of liquor laws by operating without a liquor license. Ms. Peterson stated that we need to reopen Talk of the Town Diner as we have a discussion from a member of the public who has asked that we reopen this item due to a problem he has with the Board fining the Diner. Mr. Maloney stated that he has an issue with assessing any fines to Mr. Keuchkarian, and suggests a warning is more justified. He stated that given that we do not issue fines when there are liquor law violations in this town, it is unfair to Mr. Keuchkarian who just opened a few days too early. If this is the case, why does the Board of Health not put the same type of justice across the board? Why isn't this Board calling on Mass Maritime addressing the liquor law violations? He claimed that the Board of Selectman and the Town Administrator have issued licenses incorrectly and prematurely. For example, Yummy Yo Yogurt was allowed to open early in 2015. Ms. Guarino stated that as far as liquor licenses are concerned, the Health Department does not handle them. They are issued by the Selectman's office. Typically Mass Maritime will have a routing slip between all the departments which is done electronically, and usually obtain a one or two day liquor license for an event. The liquor licenses are not in our purview other than if there is an event that will have food or food vendors, which requires a completely separate license. Mr. Maloney stated that he is asking for town-wide fairness. Ms. Peterson stated that other Boards' agenda items may have no business with the Board of Health. The Board of Health has very broad powers such as choosing to fine or choosing not to fine an establishment. She stated that she understands that Mr. Keuchkarian apologized and that he understands why he was brought before the Board, but he was open all weekend and there needs to be a fine for that. Ms. Mastria stated that the other option for Mr. Keuchkarian would be closing until the next Board of Health meeting. Mr. Maloney stated that another option could be issuing him a warning, and that if he had the funds on his person at this time he would pay the fine himself because he believes it is that unfair. He explained that there were multiple Hotel violations heard prior to Talk of the Town Diner and no one was issued a fine

tonight. Ms. Peterson stated that there might be fines for these violations in the future, and that they were not addressed tonight because there was no motions and a continuance. She continued by stating that issuing a warning would serve no purpose as a consequence because the establishment was already open. Mr. Maloney asked why the Selectmen give warnings, and Ms. Peterson explained to Mr. Maloney that they are not the Board of Selectmen, and have nor will never try to be. Mr. Maloney interjected that he believes there should be a justice system that all Boards follow. Ms. Peterson stated that it is the Board of Health's discretion on how to proceed with violations. Mr. Maloney thanked Ms. Peterson for her input and asked if there must be another motion because the item was reopened. **Ms. Mastria made a motion to fine Mr. Keuchkarian, for opening Talk of the Town Diner without a license, \$100 for three days. Mr. Uitti seconded the motion. All in favor. It was a unanimous vote to fine the Talk of the Town Diner \$300 total pursuant to the Board of Health Fine Regulation.**

**Mr. Uitti made a motion to adjourn the meeting. Mr. Barlow seconded the motion. All were in favor, and the meeting adjourned at 8:21 pm.**

Taped & Typed by Meghan McLean, Secretary

Kathleen Peterson

Stanley Andrews

Galon Barlow Jr.

Don Uitti

Kelly Mastria

cc Board of Selectmen/Town Clerk