

**Truro Board of Health Minutes  
April 15, 2014  
4:30 PM-Truro Town Hall**

**Members Present:** Chair-Dianne Eib, Vice Chair-Tracey Rose, Mark Peters, Clerk-Jason Silva, Tim Rose  
**Members Absent:** Alternate-Ansel Chaplin  
**Present:** Health Agent-Pat Pajaron, BOH Secretary-Noelle Scoullar, BOS Liaison-Bob Weinstein, Ellery Althaus, Cathy Costa, Chuck Leigh, Larry Mullaney, Barry Tandler, Peter Burgess, Claire Adams, Keith Althaus, Chris King, Laurie Ferrari, Deborah Paine

**REVIEW/APPROVE MINUTES**

Dianne called the meeting to order at 4:30pm. She informed the audience that the meeting was being videotaped, and asked if anyone else was making a recording. Hearing no response in the affirmative, she reminded all participants coming up to speak to state their name for the minutes.

**Tracey Rose made a motion to accept the April 1, 2014 minutes as corrected.  
Tim Rose seconded.  
Vote: 4-0, motion carries.**

**REPORTS**

**Water Resources Oversight Committee**

Pat stated that a WROC meeting was being held on Thursday, April 17<sup>th</sup> at 3:30pm. Mark had no report for WROC. There would be a report from their engineering firm at the meeting regarding the proposed cement grinding operation, as well as discussion regarding the South Hollow well field.

**Health Agent's Report**

Pat announced that there is a tick testing program through a grant by the Governor's Community Innovation Challenge. This is to provide free tick testing services to residents of Cape Cod and Nantucket. Each town has been awarded an allowance of 100 ticks to be tested for free. They are focusing on the deer tick. Testing will include Lyme, Babebiosis, and Anaplasmosis. Pat will be placing information regarding the testing onto the town website. Testing is through the Laboratory of Medical Zoology at the University of Massachusetts.

**PUBLIC HEARINGS**

- 1. James L. Moffit, Request for Variance to Board of Health Regulation, Section VI, Article 3(1)a. Required Upgrade Upon Transfer of Property, 11 Pond Rd.**

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Chuck Leigh approached the Board. (*Tracey Rose recused herself*). Chuck is representing James Moffit. This is a real estate transaction, and they are asking for a waiver so that the Title V can be installed after the closing. Dianne asked on what grounds were they asking for the variance. Chuck stated that it is on economic grounds. The seller has provided an engineered plan, and the buyer will pay for the installation. Pat has not seen the plan. Dianne noted that Chuck was asking for 60 days, and the Board doesn't normally grant that. She wanted an explanation for wanting 60 days. Chuck explained that the buyers live in Brooklyn, NY. The wife is pregnant, and he is trying to buy them a little extra time. Dianne asked if the plan required any variances. Chuck replied no. Dianne believes 30 days is adequate time. If circumstances change, the owners can come back to the Board. Jason asked if the owners had lined anyone up to do the installation. Chuck stated that they had received an estimate from Greg Morris. Mark added that if there appears to be a problem on the 20<sup>th</sup> day that they should contact the Board.

**Mark Peters made a motion to grant a 30 day variance (30 days from the closing date of May 2, 2014). Tim Rose seconded.**

**Vote: 4-0 (Tracey Rose recused), motion carries.**

**2. Deborah Paine, Request for Approval of Expansion of Water Service, 91 Shore Rd.**

Deborah Paine approached the Board. She is asking for a water tap on her property, located at 91 Shore Road. There is a barn under construction in the back of her property, and she would like to have a toilet and sink in there. She has been told that she needs a separate water tap for the separate building. Mark asked if she had plans to turn this into a residence at any time. Deborah replied no.

**Mark Peters made a motion to approve the expansion of water service at 91 Shore Road.**

**Tracey Rose seconded.**

**Vote: 5-0, motion carries.**

**3. Ellery Althaus, Manager, Approval of New Business License and Food Service Permit for Salty Market, 2 Highland Rd (continued from 4/1/14).**

Ellery Althaus, and Claire Adams approached the Board. Dianne stated that they have a conditional Certificate of Occupancy, which was contingent upon three items. 2 of the items involved the Board of Health:

1. Guard rail on the front steps.
2. Egress stairs up to the second floor apartment

Ellery said that the Building Inspector had come by earlier in the day and approved everything. Dianne asked about an opening date. Ellery stated that they anticipate opening within the next two weeks. Tracey asked if they had gone before the Planning Board regarding seating. Ellery told the Board that they are holding off on the seating.

**Mark Peters made a motion to grant a new business license, and food service license to Salty Market. Tim Rose seconded.**  
**Vote: 5-0, motion carries.**

**4. Catherine Costa and John Clark, Update and Request for Extension of Time to Correct Violations of the State Sanitary Code Chapter II, Minimum Standards of Fitness for Human Habitation, 105 CMR 410.000, 4 Town Hall Rd.**

*(Both Tracey Rose and Tim Rose recused themselves)* Catherine approached the Board. She is asking for an extension of time to correct the violations. They have run into some obstacles in completing the items:

1. Large snowstorm.
2. John Clark was on a ladder for a few days making repairs, and needed some time off.
3. Have been met by opposition from the tenant.

Dianne read off a list which Pat provided to the Board:

1. Fan has been installed, and is vented to the exterior of the building.
2. Tub/shower valve has been installed. Permit # 14-025.
3. New cover on light fixture.
4. Locks have been installed on all windows, and operate properly.
5. Window panes to all windows are intact.
6. Window in bedroom number two now opens/closes easily.
7. Window in kitchen, living room, bedroom number one, and bathroom still need further work to open and close easily.
8. Door frame has been repaired, painted, and a lock installed.
9. Lock to the back door has been installed.
10. Windows with locks which were painted over have now had the seal broken. They have been sanded, and painted. Windows are now able to open, but require more effort (see item 4).
11. The leak has been fixed. Wall has been patched in bathroom.
12. Air gap at the bottom of the exterior door. Door jamb was damaged and needs to be repaired.
13. Carpeting throughout is frayed, but Pat states that the tenant is going to remove the carpet.
14. Roof shingles have been replaced, and repaired. The source of the leak to this unit was not from the roof, but from a unit above which had had a leak. Gutters have been installed, and exterior soffit has been repaired.
15. Ceiling has been properly repaired, and mold removed. This area has also been repainted.
16. Window screens will be installed once the windows have been repaired.
17. New storm door will be installed.
18. Smoke/co2 detectors have all been replaced.

Larry Mullaney approached the Board. He states he's made arrangements, which Mr. Clark agreed upon, to do work on Tuesdays, Thursdays, Fridays, and Sundays. This Thursday he will be out of town, so if they would like to come in on Monday they can do so. He has a couple of friends coming down tomorrow to remove the carpeting by that afternoon.

Mark Peters made a motion to grant an extension of 7 days to Catherine Costa and John Clark.  
Jason Silva seconded.  
Vote: 3-0, (*Tracey Rose and Tim Rose recused*), motion carries.

5. **Laurie Ferrari, Peters Property Management for Ebb Tide on the Bay, 538 Shore Road, Anchorage on the Bay Condominiums, 596 Shore Road, Salt Air Cottages, 82 Shore Road, for failure to obtain a license to operate in accordance with the Truro Board of Health Regulation, Section III, Article 3, *License Required*.**

Laurie approached the Board. Dianne informed her that she was before the Board because she failed to obtain a license to operate in accordance with the Truro Board of Health Regulation, Section III, Article 3, License Required. Laurie states she did not realize that she was in violation. She was confused by the paperwork. She usually gets her smoke certificate in the spring. She timed everything accordingly, brought her paperwork in on April 1<sup>st</sup>, and then discovered she was in violation. She realized, through talking with the people in Licensing, that the smoke certificate is good for a year (which she did not realize), and now she'll have the inspection done in November, and that will help her not be late with her paperwork. Dianne asked if she was told that she could not open on April 1<sup>st</sup> when she dropped off her paperwork. Laurie believes she was told she was in violation. Noelle stated that she noted the April 1<sup>st</sup> opening date, and since it was April 1<sup>st</sup>, Laurie needed a license, and that it would be placed on the next agenda. Dianne asked Laurie if she had guests staying this past weekend. Laurie told Dianne that the people there are homeowners. Dianne stated that the reason why the Board asked Laurie to appear before them was to have her clearly understand what has to be done, and that is recorded on video tape for the record. The letter which went out in October clearly states that paperwork needs to be turned in by a certain date in order for the Board to review it. It is not the licensing clerk who issues the license it is the Board of Health. There needs to be time allowed for the Board to review, and issue the license. In the future, the Board of Health will not tolerate late paperwork. The Board is considering doubling the application fees if paperwork is turned in late. Dianne asked Laurie if she understood. Laurie replied, "clearly".

6. **Russell Braun, SeaHaven Condominiums, 510 Shore Road and Sunrise Cottages, 497 Shore Road for failure to obtain a license to operate in accordance with the Truro Board of Health Regulation, Section III, Article 3, *License Required*.**

Dianne stated that Russell Braun was unable to attend the meeting. She would like Pat to send him a letter stating the same items which she discussed with Laurie Ferrier. Mark asked if Mr. Braun was an official in Provincetown. Pat informed the Board that Mr. Braun is the Building Commissioner. Mark believes that Mr. Braun should be acutely aware of the regulations regarding these types of things. Mark would like to see Mr. Braun at a Board of Health meeting, and ask him how he can enforce these

regulations in Provincetown, but not follow them in Truro. Tracey pointed out that he had sent a letter explaining that he was confused. Dianne explained that people are tying in the annual smoke inspection, and the annual building inspection, to licensing. Dianne feels it's sufficient to put into a letter that he can do those inspections before he closes, and to state what the Board stated to Laurie. Mark continued by stating that Mr. Braun first started his real estate actions in Truro, he very carefully researched the Planning Board State law applicable to the zoning laws, and licensing laws. Dianne asked if he's turned in paperwork late before. Pat explained that this is the first year that they are implementing "operating dates". She included sections of State, Federal, and Local bylaws in their packets. In Truro, condominiums cannot be occupied from November 30<sup>th</sup> through April 1<sup>st</sup>, or November 30<sup>th</sup> through March 1<sup>st</sup> if they amend their seasonal covenant. Mr. Braun has pointed out that sometimes homeowners come down for a weekend getaway before the season. Pat states that there is no way to police who is there, whether it's a homeowner or a renter. Mark asked if there was a manager there, or a management operation. Pat told Mark that Mr. Braun is listed as the manager. Mark noted that as manager, he is supposed to enforce these things. He continued by saying that they have evidence which suggests that Mr. Braun knows what to do, has chosen not to do it, not appear, and the Board's response is to send a letter. Tim agrees with Mark. If Mr. Braun appeared before the Board to plead his case, a letter from Licensing would be fine. Tim feels he should be closed down until he comes before the Board. Tracey interjected to say that the applicants know what they are doing, but some are confused and combining dates. There are a handful of applicants that are in violation this year because they are not adhering to their paperwork. The Board is exercising more control, and enforcing the dates. The Board brings the applicants before them, state it for the record, and move on. Tracey agrees that Mr. Braun should appear before the Board. She respects the fact that he sent them a letter, gave them his opinion, and informed them that he could not come to this meeting. Dianne asked if they wished to issue a temporary license effective until their next meeting. Tim asked if all paperwork was turned in, and complete. Pat said yes. Tim agreed to the temporary license, and added that if Mr. Braun does not come to the next meeting on May 6<sup>th</sup>, the Board should issue a cease and desist order.

**Mark Peters made a motion to grant a temporary license, which will be good until the next meeting, with the condition that he must appear before the Board of Health on May 6<sup>th</sup>.**

**Tim Rose seconded.**

**Vote: 5-0, motion carries.**

**7. Michael Breneman, Show Cause Hearing: Failure to comply with the Order to Correct for Violations of the State Sanitary Code, 105 CMR 410.000. Chapter II: Minimum Standards of Fitness for Human Habitation, 25 Meetinghouse Road.**

Mr. Breneman did not come to the meeting. Dianne thinks they should authorize Pat to talk to town counsel about going to court to enforce the order.

**Mark Peters made a motion to direct Pat to speak to town counsel about going to court to enforce the order, and to stay in touch with Dianne who can make any executive decisions during the gap between Board of Health meetings.**

**Tracey Rose seconded.**  
**Vote: 5-0, motion carries.**

Dianne asked Pat if she was comfortable with this. Pat stated that there are not just maintenance issues, there are safety issues. There is a lack of smoke and c/o detectors, there is an individual living in a shed, their primary source of electric is through extension cords. There are individuals living in the basement, there are padlocks on the doors. These are what she calls "life safety" issues. Tracey reminded the Board that this is a repeat situation. They had the same situation about two years ago, and there is a blatant disregard for Board of Health policy, and regulations.

**AGENDA ITEMS:**

**1. Patrick Riviere, Request for Waiver of Transfer Station Sticker Fee (continued from 4/1/14).**

**Mark Peters made a motion to grant Patrick Riviere a waiver of the Transfer Station sticker fee.**  
**Tim Rose seconded.**  
**Vote: 5-0, motion carries.**

**2. Discussion of proposed asphalt, brick and concrete recycling operation in Truro and 310 CMR 16.00 Site Assignment Exemption Processes.**

Pat wants to keep this as a discussion only. No mention of specific location or parties is to be referenced. She wants to give the Board some information of what an ABC recycling center, or asphalt/brick/concrete operation is. She'd like to discuss some of the general processes involved with the DEP regulations. In November 2012 DEP revised their solid waste regulations, and included a regulation 310 CMR 16 on an "exemption from site assignment". They took particular operations that pertain to recycling (reduce/reuse) out to encourage the recycling, reuse, and reduction of certain materials. There are three exemption processes, and levels of processes in 16.00 (exemption from site assignment). First process is a notification. For example: An individual proposes to conduct an ABC recycling operation. To meet this exemption under the first tier, they have to meet all of the criteria, a sampling of which is below.

1. Being an active quarry, sand, or gravel pit.
2. Material must be clean.
3. Must keep records.

They must give a 30 day notification to the Board of Health, and DEP.

An applicant jumps to tier two if they cannot meet one of the items on the list of exemptions, they would apply for a general permit. This is another site exemption process with a higher review.

1. New recycling activity at a site.
2. Managing up to 250 tons per day.

This particular permitting process involves the Board of Health, Planning Board, and Zoning Board (for site plan review). They need to take a look at the activities to determine whether it's something new, or

different. They are to look for potential environmental impacts as well. At this point, the Board of Health would be able to weigh in on the application process. The Board will be able to look at the plan, the activity, and make comments on the proposal.

The third tier is called a Recycling, Composting, and Conversion Permit. This involves a much higher review.

1. A public hearing is required through DEP.
2. Public notice comment period.
3. May have to do an environmental impact report.

Any one of the three tiers, in the permitting process, does not give carte blanche approval for the activity because the individual still needs to meet local regulations, and bylaw. The site where the proposed facility would be located cannot be near wetlands, and cannot be near zone two of a public supply well. There are various parameters which the applicant will need to meet.

Tracey wanted to know what the distance was for a zone 1. Pat stated that it depends on the well, and there is a calculation used which is based on the size of the facility. No activity is allowed in a zone 1. There are no DEP prohibitions on a zone 2, for this particular activity. The town, however, may not allow it. Tracey wanted to know about a densely residential area. Pat stated, going back to the zoning portion, it would be reviewed for noise impact, dust, and odor. The second and third tier permitting is where the environmental impacts are looked at. Dianne noticed that Provincetown Water Department has mentioned some concerns.

#### **LICENSING RENEWAL APPROVALS**

1. **Bernard Roderick/Chris King, Mgrs of Cape Tip and Lobster Market, 300 Route 6, Food Service Establishment Permit (continued from 4/1/14).**
2. **Jane Andrews, Mgr of Shoreline Beach Condominium LLC, 556 Shore Road, Condo License.**
3. **Carol McCabe, Mgr of Colonial Village Condominiums, 630 Shore Road, Condo License.**
4. **Eric Jansen, Mgr of Blackfish Restaurant, 17 Truro Center Road, Food Establishment, Ice Cream and Caterer License.**
5. **Arthur/Jason Kuliopulos, Mgrs of White Sands Beach Club, 706 Shore Road, Motel License.**
6. **Michael Cageao/Ray Battista, Mgrs of North Highland Camping Area, 52 Head of the Meadow Road, Campground, Food Establishment and Ice Cream Licenses.**
7. **Eric Jansen, Mgr of Crushpad (operated at Truro Vineyards), base of operation 17 Truro Center Road, Food Establishment License.**
8. **Roberta Schnabel, Mgr of Pilgrim Beach Condominium, 174 Shore Road, Condo License.**
9. **Joel/Barry Tandler, Mgrs of Cape View Motel, 364 Route 6, Motel License.**
10. **Albert/Jason Silva, Mgrs of Top Mast Motel and Café, 209 Shore Road, Food Service, Ice Cream and Motel Licenses.**

#### **The following applicants applied for their licenses late:**

11. **Russell Braun, Mgr of Sunrise Cottages Condominium, 497 Shore Road, Condo License. Received application on 3/31/14, date of opening listed as 4/1/14.**

- 12. Russell Braun, Mgr of Sea Haven Condominium, 510 Shore Road, Condo License. Received application on 3/31/14, date of opening listed as 4/1/14.**
- 13. Don Dizon/Henry Stoll, Mgrs of Anchorage on the Bay Condos, 596 Shore Road, Condo License. Management company brought in application on 4/1/14, date of opening listed as 4/1/14.**
- 14. Peters Property Management, Mgr of Ebb Tide on the Bay, 538 Shore Road, Condo License. Management company brought in application on 4/1/14, date of opening listed as 4/1/14.**
- 15. Charles/Beverly Arnott, Mgrs of Salt Air Condominiums, 82 Shore Road, Condo License. Management company brought in application on 4/1/14, date of opening listed as 4/1/14.**

Chris King approached the Board. Dianne asked Mr. King how he happened to open without a license. Chris stated that generally, in the past, Mr. Roderick gets the license before they open. There was miscommunication, as Chris thought all the paperwork was in. He found out after the Board of Health meeting that he was in violation. He came down the Wednesday after the meeting and submitted the paperwork which had been sitting on his desk. Things will be handled differently going forward. Dianne told Chris that in the future he will not be granted a temporary license, no matter what the hardship is. The Board will not tolerate anyone operating without a license. She asked Chris if he understood. Chris said "understood". She informed him that if in the future he operates without a license, he will be fined. Chris replied that he understood.

Dianne went on to ask if items license renewal applicants 1-10 were in good standing. Noelle and Pat stated that all were in good standing.

**Mark Peters made a motion to grant the licenses to applicants 1-10.**

**Tracey Rose seconded.**

**Vote: 4-0 (*Jason Silva abstained*), motion carries.**

Dianne noted that applicants 11-15 have all been duly spoken to. They have dealt with items 11 and 12 by issuing a temporary license. They will not be issuing a full license until Mr. Braun appears before the Board. Mark stated that he would have the Board keep in mind (regarding Peters Property Management) that it's very nice to be a property management service, but they have to do their job. In his opinion, they are missing a link.

**Tracey Rose made a motion to approve items 13-15.**

**Mark Peters seconded.**

**Vote: 5-0, motion carries.**

**Tim Rose made a motion to adjourn at 5:20pm.**

**Mark Peters seconded.**

**Vote: 5-0, motion carries.**



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**Chair-Dianne Eib**

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**Vice Chair-Tracey Rose**

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**Clerk-Jason Silva**

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**Mark Peters**

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**Tim Rose**

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**Alternate-Ansel Chaplin**