

TOWN OF ORLEANS - BOARD OF HEALTH FEB 19 PM 4:01

MINUTES OF MEETING

February 5, 2009

Chairman Sims McGrath called a meeting of the Board of Health to order at 2:00 p.m. on Thursday, February 5, 2009 in the Skaket Meeting Room of the Orleans Town Hall.

Present: Chairman Sims McGrath, Robin Davis, Ph.D., Susan Christie, Jan Schneider, M.D., Augusta McKusick; and Robert Canning, Health Agent

Public/Press

There was no one present for Public/Press.

Approval of Minutes

The minutes of the Board of Health meeting held on February 2, 2006 had previously been distributed to the Board members for review.

On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted to accept the minutes of the meeting of the Board of Health held on February 2, 2006. The vote was 4-0-1. Mr. McGrath abstained because he was not yet a member of the Board of Health.

The minutes of the Board of Health meeting held on July 6, 2006 had previously been distributed to the Board members for review.

On a motion by Dr. Schneider and seconded by Ms. McKusick, the Board of Health voted to approve the minutes of the meeting of the Board of Health held on July 6, 2006. The vote was 5-0-0.

The minutes of the Board of Health meeting held on January 22, 2009 had previously been distributed to the Board members for review.

On a motion by Dr. Schneider and seconded by Ms. McKusick, the Board of Health voted to approve the minutes of the meeting of the Board of Health held on January 22, 2009. The vote was 4-0-1. Ms. McKusick abstained from the vote because she was excused from that meeting.

Board members discussed the abbreviated version of the meeting minutes and Mr. Canning explained that the shorter version, the way the Selectmen have their minutes prepared, saved approximately two hours in preparation time. He requested feedback from the Board members regarding their preference.

It was noted that some variance requests that come before the Board of Health are fairly simple and do not need to be documented in detail. However, when there is a request that is very complicated and comes before the Board at several meetings it is very helpful to have the detailed notes in the longer form to review prior to the meeting. Ms. Burwell was asked if the level of complexity determined the difference in time to prepare the minutes, to which she explained that during the meeting she is making considerable notes in the minutes that must then be removed and reduced to a very sparse description of the reason for the hearing. It was also discussed that if the minutes are prepared in an abbreviated format, future discussion on a previous hearing would necessitate transcription of the minutes at that point prior to the meeting; and does the saving of staff time initially outweigh the staff time needed to transcribe the hearing minutes in the future? Board members discussed the fact that the Board of Health is a regulatory board and that it is sometimes necessary to review prior minutes to recollect what was discussed at prior meetings.

Board members discussed the need to hold a workshop to fine tune their votes to make them more succinct and clear. They also noted that several hearing requests have become very complicated and it is likely that they will continue to be complicated in the future. The fact that the written minutes, rather than a digital recording, become the legal record of a meeting was discussed. They also discussed the backlog of old minutes and Mr. Canning opined that there might be a dozen or so left to be transcribed by office staff and the Board secretary. It was suggested that the Board accept the abbreviated format until all of the old minutes are completed and then return to the standard format. However, other Board members disagreed with that suggestion and noted their preference to continue the standard format.

This discussion was tabled to allow the advertised hearing to proceed.

Hearings

6 Skaket Circle

Mr. David Lajoie of FELCO Engineering, Inc., representing James Rotondo, owner of the property at 6 Skaket Circle, explained that the current plan shows the leaching area in the front of the property in order to maximize the distance to wetland areas. It includes alternative technology, a bio-filter, and some nitrogen reduction capability.

Mr. Lajoie explained that soil testing in the front of the property revealed peat approximately six feet (6') below grade with suitable soil below the peat. He showed a new schematic and asked the Board members to reconsider allowing the leach field to be located in the back of the yard, still keeping it away from the wetland as much as possible. His schematic showed the location of the house, leaching areas, area of ACEC, a paved road in back of the lot, coastal wetland area, and the direction of groundwater flow. The owner has agreed to elevate the leach field in the back yard location in order to maintain the five foot (5') separation from the groundwater. Mr. Lajoie also explained that the backyard location has better soil conditions for a leach field. The front location would necessitate removing the peat layer and refilling the area with new soil, an added expense to the owner.

Mr. Canning reviewed the history of this property and reported that on May 27, 2008 the Health Department issued an order to repair the septic system serving 6 Skaket Circle. This order was issued because the existing leaching area is located less than two feet (2') above the adjusted high ground water elevation (0.02'±).

On December 4th and 18th, 2008 the Board of Health reviewed a request for a variance on this property. The proposal included the installation of a leaching area to the south of the dwelling. The variances required for that proposal included the following:

- The SAS was located 11' and 18' from the edge of bordering vegetated wetlands (39' Title 5 variance & 89' OBOH variance)
- The septic tank was located 12' from the edge of bordering vegetated wetlands (13' Title 5 Variance and 38' OBOH variance)
- The leaching area was proposed 3' above groundwater where 5' is required. (2' variance from Title 5)
- The leaching area required a 23% reduction in size.

After reviewing the proposal and conducting a site visit the Board of Health requested FELCO Inc to evaluate the potential to locate the leaching area on the north side of the property.

The new proposal, which is before the Board today, differs from the initial proposal as follows:

- The septic tank/pump chamber and the Waterloo Bio-filter are in the same location for both proposals.

- The leaching area is 50' from the bordering vegetated wetlands versus 11' in the December proposal.
- The leaching area requires a 25% reduction in size versus a 23% reduction in the December proposal
- The leaching area is located in a filled wetland. Peat was encountered in the soil observation holes (#3 and #4). The December proposal had the leaching area located in filled upland.

Mr. Canning outlined the two significant differences: 1) setback from edge of bordering vegetated wetlands and 2) the location of the leaching area in a filled wetland which must be weighed against each other.

- With a leaching area located 11' from a wetland, having a reduction in separation to groundwater, a reduction in the size of the leaching area and the installation of an I/A technology that will reduce the bio-mat Mr. Canning expressed concern that the effluent being discharged may surface to the top of the ground in close proximity to the leaching area without the benefit of much bacterial treatment in the horizontal flow of the effluent.
- The location of the leaching area in a filled wetland. The Orleans Board of Health Regulations state that: If a wetland has been filled, relocated or altered, it shall continue to be defined as a wetland in the design of a SSDS. Although there is no map indicating the earlier existence of a wetland in the area of the proposed leaching area, the presence of peat would serve as such an indication. When the dwelling was built in 1977 the design plan did not identify any wetlands, however soil observation showed a peat layer to the south of the dwelling. Based on the above, it would appear that the wetlands had been filled prior to 1977 and the extent of this fill is unknown.

The issue before the Board of Health appears to be one of regulatory versus one of public health. While the location of the leaching area in a filled wetland does not meet the OBOH regulation it does offer a location on the property that is located 50' from any existing visible wetland. Mr. Canning opined that this would offer a greater degree of protection to the public health than locating a leaching area 11' from a wetland.

Mr. Canning discussed the impact of the groundwater flow on the proposed location of the leaching area.

Mr. Lajoie distributed the original plan and noted that with the elevated leach field he would not be requesting a variance for depth to groundwater. He explained where the vegetated wetland is located and that it is intercepted by the road.

Board members discussed that aesthetically and economically it would be preferable to locate the leach field in the back of the property if it offers the same environmental protection. Test hole results were reconsidered during discussion, noting that there was no peat evident in the rear of the property.

Mr. Canning noted that the existing leaching area is six feet (6') away from a vegetated wetland, with no separation to groundwater. He discussed the use of UV treatment in a pressure-dosed system. They discussed the rate of reduction in bacterial count in relation to flow.

Mr. Lajoie explained that he could install a full size leach field with a pressure-dosed system five feet (5') above the groundwater elevation if allowed to locate it in the rear of the property. He would need to remove peat from the front location and locate the system three feet (3') above the ground.

Mr. Lajoie explained that the original plan showed an addition that will not be constructed. Board members were concerned about a side breakout into wetland but Mr. Lajoie explained there is no side leaching and that a barrier would not prevent breakout. Mr. Canning expressed concern that if the barrier goes below groundwater it might cause mounding under the leach field. He noted that there are several improvements in the rear location and he would research additional statistics regarding the flow of bacteria.

Mr. Canning asked to see what the separation to groundwater is around the vegetated wetlands. Mr. Lajoie will forward that information to Mr. Canning. He also intends to install a monitoring well to determine whether it is perched water in the wetlands. Mr. Lajoie explained that there is a calculation to determine the affect of the tides on groundwater adjustments in soils.

On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of 6 Skaket Circle to continue this continuance to 2:15 p.m. on February 19, 2009. The vote was 5-0-0.

Board members discussed whether to conduct a work session to improve their motions.

On a motion by Ms. McKusick and seconded by Ms. Christie, the Board of Health voted to conduct a work session to refine their motions at 1:00 p.m. on February 19, 2009. The vote was 5-0-0.

Board members decided that it is important to maintain consistency in preparation of the minutes and that they prefer the standard version. It was noted that the request for abbreviated minutes was in response to reduce the staff expense of preparation. It was agreed that the Board of Health must have a full and articulate record of the actions taken by the Board in its capacity as a regulatory board.

It was the consensus of the Board of Health to continue with the standard version of the minutes.

Ms. Burwell suggested that she prepare abbreviated, time-stamped minutes using the digital voice recordings of the backlog; however, this must first be approved by Town Counsel.

It was brought to the attention of the Board members that Ms. McKusick had seconded a motion earlier in the meeting to approve the minutes of January 22, 2009 but she had been excused from that meeting. In reconsideration the Board members decided to vote again.

On a motion by Dr. Schneider and seconded by Ms. Christie, the Board of Health voted to approve the minutes of the meeting of the Board of Health held on January 22, 2009. The vote was 4-0-1.

Ms. McKusick abstained from the vote because she was excused from that meeting.

Health Agent's Report

Mr. Canning reported on the following:

Temporary Food Service Permit

Kathy Meyers from the Orleans Elementary School has requested a variance for the preparation of fruit for a Curator's reception for the 4th grade class to be held at the Crane Gallery at Snow Library on Friday, March 13, 2009 from 1:00 to 3:00 p.m. Cookies, mini-muffins, grapes and Clementines, water, juice and soda will be served. The grapes and Clementine sections will be placed in muffin cups. Fruit will be prepared using gloves at the library kitchen on the morning of the event. Cookies, muffins, water, juice and soda will be store bought. All serving will be by adults using tongs or gloves. Everything will be single use articles. Restrooms and hand washing facilities are available onsite.

On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted approval for the event at Snow Library for the Orleans Elementary School on Friday, March 13, 2009 from 1:00 to 3:00 p.m. and to approve a variance for the preparation of fruit. The vote was 5-0-0.

Disposal Works Installers License

Daniels Recycling Co. Inc., 71 Finlay Road has requested a new license because the previous license had not been renewed last year.

On a motion by Dr. Davis and seconded by Ms. Christie, the Board of Health voted to approve issuance of a Disposal Works Installer License to Daniels Recycling Company, Inc. The vote was 5-0-0.

DRCI Monthly Report:

The Health Department has received the monthly operational report from Daniels Recycling Company Inc. for the month of December 2008. The reports were prepared to satisfy the monthly reporting requirements of the DEP's Authorization to Operate, and to satisfy the conditions of the Orleans Board of Health Site Assignment. The December Report states that Daniels Recycling Company in 21 working days received 478 tons of C&D material (22.79) and 37 tons of brush (1.78 TPD). There were no reported positive results for asbestos.

Mr. Canning reported that the Health Department is conducting the Industrial Area survey in the commercial area of Raybur and Giddiah Hill Road.

Tobacco Control Compliance Checks

On January 21, 2009, personnel from the Cape Cod Regional Tobacco Control Program conducted compliance checks at 15 tobacco retail establishments in Orleans. The purpose for this was to determine compliance with the Orleans Board of Health Regulations concerning the sale of tobacco products to minors. All of the establishments passed the compliance inspection; no product was sold to minors.

BCDHE I/A Management Program

For several years now the Barnstable County Health Department has been providing a tracking service for all of the Innovative/Alternative septic systems installed in Orleans. This service continues to provide quality performance data, tracks the status of the monitoring contracts for individual properties, and allows for the electronic reporting of system service and monitoring. To date, funding for database manager has been provided by Barnstable County growth initiative funding and other grant funds. Further services, such as data reports and follow ups have been provided by Department staff. Unfortunately, funds for support of the database manager will expire, July 1, 2009. Because of this change in funding the County has identified five possible options for continuing this service.

Option 1: Allow the program to expire. I/A program staff support ends July 1. Under this option, BCDHE would cease to enforce O&M contract and sampling requirements and enforcement would revert to individual towns. Barnstable County would continue to provide funding for Carmody database so that towns can use it to track their own systems and conduct their own follow up.

Option 2: Institute an operating permit with fee for individual I/A owners. Each owner would be required to have an operating permit at a cost of \$50 per year. At 1400 systems installed county-wide, this would generate sufficient funding to support an I/A program staff position. The County does not favor this option because it will be extremely labor intensive to chase 1400 owners to pay their operating permit fees.

Option 3: Institute a database user fee for system operators. System operators would be required to pay \$50 annually per system that they operate for the privilege of using the reporting system. This will generate sufficient funding to support the I/A program staff position. The fee will be phased in during the first year, when operators will be charged \$25 per system, to give them time to build cost into coming years contracts with owners. County has requested FY10 funding from the Cape Cod Water Protection Collaborative to cover half of staff's salary during the first year of this program to accommodate the phase-in approach.

Option 4: Create County-wide Management District for all I/A systems. One, or several, operators would operate all residential I/A systems county-wide using standard operating and sampling protocols. Contract to operate systems would be put out to competitive bid, either for all systems, or for geographic regions. Homeowners would maintain O&M contract with County management district. Creating a county-wide management district will be a huge undertaking: legally, politically, financially, and logistically.

Option 5: BCDHE undertakes O&M for a limited number of systems; creation of a trial mini management district. Under this option, BCDHE wastewater operators (from Massachusetts Alternative Septic System Test Center (MASSTC)) operate a small number of systems (approx 50) using standard operating, sampling, and follow-up protocols to see if system performance can be improved overall. If the county is successful in demonstrating improved performance, it/we can argue that creation of a county-wide management district would be worthwhile.

On January 30, 2009 the Health Agents Coalition voted in favor of pursuing options #3 & #5.

The Orleans Sewage Disposal Regulations require owners and operators of all Innovative/Alternative sewage treatment technologies to report the results to the Barnstable County Department of Health and Environment. Such reporting must be performed in the manner specified by Barnstable County Department of Health and Environment.

Mr. Canning recommended that if the Board of Health is comfortable with the pursuit of options #3 & #5 he will discuss the matter with Town Counsel to confirm that Orleans' regulations are adequate to require an owner/operator to report the data to the County even if a fee is required.

Board members discussed the adoption of minimum performance standards for I/A systems. Also that Mr. Canning volunteer Orleans to be the town tested by the County. Make Orleans a Groundwater Protection District. The Board must also consider the seasonal impact on septic systems.

Mr. Canning requested approval of the draft letter after asking Town Counsel if Orleans' local regulations are not sufficient, what changes are needed.

On a motion by Ms. McKusick and seconded by Ms. Christie, the Board of Health voted to ask the Health Agent to submit to Barnstable County a letter to support their options for the Carmody System. The Board concurs that Option 3 as delineated and Option 5 receive its support. The vote was 5-0-0.

Old/New Business

6 – 1 A report from the MDPH Health and Human Services regarding the **Massachusetts Tobacco Control Program** had previously been distributed to the Board members for review and discussion.

6 – 2 A notification from the Barnstable County Department of Health regarding the future of the **BCDHE I/A Management Program** had previously been distributed to the Board members for review and discussion.

6 – 3 A letter from the Health Department regarding the house at **40 Orie Lane** had previously been distributed to the Board members for review and discussion.

Mr. Canning reported that Town Counsel suggested options to gain compliance at this property and address the cyber advertising. Ms. Christie outlined the current rental reservations on the house for the coming season and noted that the ad lists four bedrooms sleeping eighteen people. The Board of Health is concerned that the house was not constructed as approved; such as the open stairway that has been enclosed offering isolation for the lounge and game room, and the Library was fitted with doors and does not have a six foot (6') cased opening.

Board members approved the draft letter prepared by Mr. Canning, but expressed concern that the advertised listing offers sleeping for eighteen people in four bedrooms and the septic system is not designed for eighteen people. It was the consensus of the Board members to send the letter as drafted.

6 – 4 The **Call for the Orleans Annual Town Meeting and Special Town Meeting for May 11, 2009** had previously been distributed to the Board members for review and discussion.


6 – 5 A corrected letter from the MDPH Bureau of Environmental Health regarding an inspection conducted at the **Orleans Police Department Lockup Facility** noting there are no violations, had previously been distributed to the Board members for review and discussion. It was also noted that the inspector observed a possible suicide hazard in the holding cells.

6 – 6 A report from Stearns & Wheeler regarding the **Bi-Monthly Transfer Station Inspection** had previously been distributed to the Board members for review and discussion. Mr. Canning reported that the Transfer Station/Landfill is fully in compliance.

Adjournment


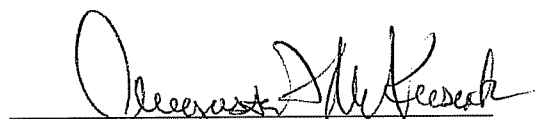
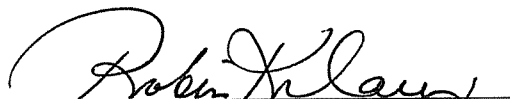
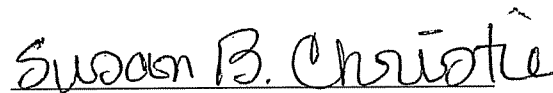

On a motion made by Dr. Schneider and seconded by Ms. Christie that there being no further business to come before the Board, it was voted to adjourn this meeting of the Orleans Board of Health at 3:40 p.m. The vote was 5-0-0.

Respectfully submitted,



Lynda M. Burwell, Board Secretary

ORLEANS BOARD OF HEALTH


Sims McGrath, Jr., Chairman
Augusta F. McKusick
Robin K. Davis, Vice Chairman
Susan B. Christie
Jan Schneider, M.D.

Date Approved: February 19, 2009