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## **TOWN OF ORLEANS - BOARD OF HEALTH**

### **MINUTES OF MEETING**

**July 2, 2009**

The Board of Health convened its meeting at 2:09 p.m. on Thursday, July 2, 2009 in the Skaket Meeting Room of the Orleans Town Hall.

Present: Vice Chair Augusta McKusick, Jan Schneider, M.D., Attorney Job Taylor, III; and Robert Canning, Health Agent. Also present, Mark Carron, Board of Selectmen Liaison

Excused: Chair Robin Davis, Ph.D., Susan Christie

#### **Agenda Item 1 – Public/Press**

There was no one present for Public/Press.

#### **Agenda Item 5 – Approve Minutes**

The minutes of the Board of Health meeting held on June 18, 2009 had previously been distributed to the Board members for review. The minutes could not be approved because of a lack of Board members present from that meeting.

The minutes of the Board of Health meeting held on December 16, 2004 had previously been distributed to the Board members for review. The minutes could not be approved because of a lack of Board members present from that meeting.

#### **Agenda Item 8 – Health Agent's Report**

Mr. Canning reported on the following:

##### **Permits**

Mahoney's Atlantic Bar & Grill, dba Sumptuous Catering has applied for a Catering License. Their location is at 28 Main Street at Mahoney's Atlantic Bar & Grill. The Health Department has a letter from an engineer confirming that this activity should not impact their septic system.

**On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted in the matter of Mahoney's Atlantic Bar & Grill, dba Sumptuous Catering, to approve a Catering License. The vote was 3-0-0.**

##### **Temporary Food Service Permits**

Anthony Pasquale representing the Artisans Guild Craft Show to be held July 3 and 4, 2009 from 10:00 a.m. to 3:00 p.m. at the Nauset Middle School, has applied for a Temporary Food Service Permit to sell sandwiches, grilled vegetables, roasted chicken, cold Gazpacho soup, baked goods, canned soda and bottled water. All food will be premade and prepackaged in individual servings at Stella's Pizza. There are no variances needed.

**On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted in the matter of Anthony Pasquale representing the Artisans Guild Craft Show on July 3 and 4, 2009 at the Nauset Middle School, to approve a Temporary Food Service Permit. The vote was 3-0-0.**

Cathy Lewis, representing The Orleans Methodist Church, applied for a variance for cooking outdoors and for the menu for their annual 4<sup>th</sup> of July barbeque during the parade. They will be serving hot dogs, hamburgers, lobster rolls, pre-wrapped cookies, chips, brownies, coffee, and doughnuts; all made in their licensed kitchen. A variance is needed for cooking outdoors and for the menu.

**On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted in the matter of Cathy Lewis, representing The Orleans Methodist Church, approving a variance for cooking outdoors and for the menu for their annual 4<sup>th</sup> of July barbeque during the parade. The vote was 3-0-0.**

JJ Concessions has applied for a Temporary Food Service Permit for two events to be held on July 18 & 19, and August 16 & 17 for the Orleans Arts and Crafts Show at the Nauset Middle School. All cooking will be conducted inside the mobile unit that meets code requirements. They will be serving some of the following items: hot dogs, hamburgers, sausages, shaved steak sandwiches, clam cakes, fries, chicken fingers, coleslaw, sandwiches, grilled chicken, chicken Cesar wrap, fresh lemonade, juice, soda, and bottled water.

**On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted in the matter of JJ Concessions for two events to be held on July 18 & 19, and August 16 & 17 for the Orleans Arts and Crafts Show at the Nauset Middle School, to approve two Temporary Food Service Permits. The vote was 3-0-0.**

Because it was 2:15 p.m. and the assigned time for Item 2 of the agenda, completion of the Health Agent's Report was continued until later in the meeting.

### **Agenda Item 2 – Amended Subdivision – 114 and 118 Barley Neck Road**

Mr. Philip Scholomiti of Ryder & Wilcox represented Richard and Lisa Pell, owners of the property at 114 and 118 Barley Neck Road located on a cul-de-sac off Barley Neck Road. Currently there is an existing dwelling and a barn on this property which consists of three separate lots. This plan proposes to combine the three lots into one large lot, and reduce the size of the cul-de-sac from 80 feet to 60 feet. The new lot would contain 5.02 acres of land. Because the current dwelling is within the 100 foot buffer zone to a wetland near a pond, the owner would like to reconstruct a dwelling outside the wetland buffer zone. There are 3.87 acres of buildable land outside any wetlands. It was noted that any future construction would require review by the Board of Health.

Mr. Canning discussed ownership of the current three lots. If they are in separate ownership it would be required that the septic system for the current dwelling be inspected. Mr. Scholomiti explained that the septic system was inspected in 2007 and Board members agreed that that inspection would be sufficient if the lots are in separate ownership.

Board members inquired about the required turning radius when designing a cul-de-sac and Mr. Scholomiti explained that those requirements are under the purview of the Planning Board. They were also concerned that a future owner might ask to re-divide the property and then build another dwelling near the wetlands. Mr. Scholomiti confirmed that there would not be enough room to install a driveway for access to another dwelling.

**On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted in the matter of 114 and 118 Barley Neck Road that after discussing the issues pertinent to the Board of Health they found no issues. The vote was 3-0-0.**

### **Agenda Item 3 – Approval Request – Retail Sale of Shellfish at the Farmers' Market**

Mr. Canning explained that this hearing request has been withdrawn.

However, since Gretel Norgeot was present, Mr. Canning discussed that the Health Department had received two requests for Temporary Food Permits for the sale and tasting of the smoked fish product for the last two weekends. At the previous Board meeting he was asked to prepare a license for the Orleans Farmers' Market to allow for tasting of foods and retail sale of those foods. He recommended that the Board of Health issue a

Food Service Permit to the Orleans Farmers' Market with a restriction that any foods to be sampled must first be approved by the Board of Health. It would also require variances to State and Federal Food Code for physical facilities, refrigeration, and sinks. He also recommended that the Board of Health issue a Retail Food Permit to Farmers' Market to allow them to retail those products. There is no set fee for a Retail Food Permit for a non-profit organization; however, a Food Service Permit is \$25.

Ms. Norgeot asked that these fees be waived for the Orleans Farmers' Market, a non-profit organization under the 501 c (6) regulations. Ms. McKusick acknowledged the need to request a waiver but also expressed concern about the additional work for the Health Department.

Board members discussed that there is a large number of vendors at the Farmers' Market, and it seems that Ms. Norgeot could collect a small amount from each vendor. Mr. Canning suggested that the Retail Food Permit be included under the \$25 fee for the Food Service Permit.

**On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted to grant both a Retail Food Permit and Food Service Permit to the Orleans Farmers' Market. The Board does not waive the \$25 fee for the Food Service Permit due to the fact that the Orleans Farmers' Market is a 501 c (6) as opposed to a 501 c (3) charitable organization. The Board also grants variances to the State and Federal Food Code with regard to physical facilities, refrigeration, and sinks. The vote was 3-0-0.**

### **Agenda Item 8 – Health Agent's Report (Cont'd.)**

Mr. Canning continued his Health Agent's Report.

The **Daniels Recycling Company, Inc.** monthly report for May was submitted to the Health Department. In 20 working days they processed 699 tons of C&D material and 15 tons of brush. There were no reported positive results for asbestos.

Mr. Canning reported on his discussion with Town Counsel regarding DRCI's request to modify their Site Assignment Conditions. The Board of Health is required to hold a public hearing and a hearing officer is required for that public hearing. The Board of Health may assess to the applicant the cost to advertise and the cost of the hearing officer. Mr. Canning also discussed with Town Counsel the scope of the hearing. He suggested that prior to the hearing the Board members might request information regarding turning radiuses for trucks at certain intersections, truck weights and their affect on town roads, etc.

Board members expressed concern that they don't have the expertise to interpret the technical information provided and that perhaps they should consult a traffic expert. Mr. Canning suggested asking the Cape Cod Commission for their opinion since they have previously reviewed the reports and perhaps someone from the Traffic Study Committee.

It was the consensus of the Board of Health that Mr. Canning should take the necessary action to schedule a public hearing and obtain a hearing officer.

Before Mr. Carron left the meeting he reported that the Board of Selectmen had discussed the departure of a Health Department staff member and their hesitation to approve hiring a replacement. He expects that the Selectmen will continue to emphasize the need to pare down the Board of Health minutes in order to eliminate the backlog. Disregarding the minutes issue, he reported that both he and Mrs. Fulcher spoke about the need for full staff in the Health Department. Dr. Schneider noted the number of state and federal mandates requiring active participation by the Health Department. He also explained the need for detailed minutes to validate the Board's decisions. Mr. Canning reported that there are approximately four to six sets of minutes to be completed.

On June 25 the beaches at Pleasant Bay and Town Cove were closed because of elevated bacteria counts. Subsequent samples came back fine and the beaches were reopened the next day. The closures were apparently caused by heavy rain and road runoff.

Mr. Canning reported that Betsy Sorensen is leaving and staff will miss her because she has become a valuable employee in a short period of time. He discussed the hiring freeze, and the process necessary to replace her. He noted that the Board of Health has asked the Health Department to work on new regulations for floor drains, stable regulations, above-ground fuel storage tank regulations, and escrow account policies. He will discuss this issue further with Mr. Kelly as well as the issue of minutes and mandated inspections. Dr. Schneider again asked how far back the minutes were to begin with. Mr. Canning reported that they went as far back as 2004. Dr. Schneider inquired whether Mr. Canning would change any of the restaurant inspection and other inspection requirements, to which Mr. Canning acknowledged that they are required to inspect restaurants twice per year, some more often. Primarily they are working with the owners for hazard analysis and attention to detail. Inspections of septic systems on sale of property cannot be changed. Changing the way things are done by not being as thorough will take more time to correct issues that might have been caught earlier. Ms. McKusick suggested a fallback position of hiring a part time employee. She also suggested consulting with Mr. Withrow about escrow accounts and obtaining draft policies from other towns.

#### **Agenda Item 4 – Hearing Continuation – 33 Bay Ridge Road**

Mr. Canning reported he had conducted a walk-through on May 18, 2009 with the engineer and they agreed on what exists for rooms and classification for design flow purposes. They have received an application for a Disposal Works Construction Permit. The engineer has chosen an installer who will install a septic system during the week of July 13. Coastal Engineering has continued to monitor the leaching system finding that a foot of leaching capacity is available. Mr. Canning suggested a continuation of the hearing to September 3, 2009, at 3:00 p.m.

**On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted in the matter of 33 Bay Ridge Lane to continue this hearing until 3:00 p.m. on September 3, 2009. The vote was 3-0-0.**

#### **Agenda Item 8 – Old and New Business / Review Correspondence**

8 – 1 A letter from Cynthia Suonpera, owner of the property at **7 Manito Road**, had previously been distributed to the Board members for review and discussion. Mr. Canning noted that the system has been pumped and the house is not occupied at this time. Ms. Suonpera is requesting an extension of time to repair the septic system.

**On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted in the matter of 7 Manito Road to extend the order to repair until August 1, 2010 as long as the house continues to be unoccupied. The vote was 3-0-0.**

8 – 2 A letter from Albert “Skip” Norgeot, owner of the property at **26 Giddiah Hill Road**, had previously been distributed to the Board members for review and discussion. Mr. Canning reported that this property is in an industrial area and has been part of the Health Department’s enforcement action. There is much work to be done to clean it up. He suggested that the Board extend the order until October 1, 2009 with the condition that Mr. Norgeot evaluate anything that contains petroleum products to make sure that it is contained or drained.

**On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted in the matter of 26 Giddiah Hill Road to extend the order until October 1, 2009 with the condition that Mr. Norgeot evaluate anything that contains petroleum products to make sure that it is contained or drained. The vote was 3-0-0.**

8 – 3 A report from the Cape Cod Commission regarding the Orleans Comprehensive Wastewater Management Plan had previously been distributed to the Board members for review and discussion. Ms. McKusick reported that the comment period is closed and they are awaiting a ruling.

8 – 4 The minutes from the May 13, 2009 meeting of the Orleans, Brewster, Eastham Groundwater Protection District Board of Managers Meeting had previously been distributed to the Board members for review and discussion.

8 – 5 The Weekly Report on Novel H1N1 Influenza (swine flu) as of June 25, 2009 had previously been distributed to the Board members for review and discussion. Board members discussed whether there are any residential camps in Orleans, and Mr. Canning reported that there are only day camps. He also reported that Novartis is exploring a vaccine for this flu. Because a person would need two doses of this vaccine it would be necessary to schedule two separate flu vaccine events, and it might be necessary to modify the program to accommodate young people who are more prone to contracting this flu.

8 – 6 Information on the Nitrex Nitrogen Removal Technology had previously been distributed to the Board members for review and discussion.

8 – 7 A letter from George Heufelder regarding the Soil Air system at the Second District Courthouse had previously been distributed to the Board members for review and discussion. Mr. Canning reported that there is a slight increase in liquid level in the leaching pits.

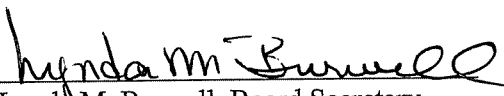
8 – 8 A draft Transition Rule Policy prepared by Mr. Canning had previously been distributed to the Board members for review and discussion. Mr. Canning discussed whether a failed septic system would be protected under the Transition Rule. It was the consensus of the Board members to postpone voting on this proposed policy until all members of the Board of Health can be present.

Ms. McKusick reported that a compendium of the regulations written by the Board of Health is available for review by Attorney Taylor.

### **Agenda Item 11 – Adjournment**

**On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted to adjourn this meeting of the Board of Health at 3:13 p.m. The vote was 3-0-0.**

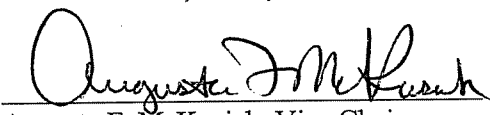
Respectfully submitted,

  
Lynda M. Burwell, Board Secretary

### **ORLEANS BOARD OF HEALTH**

Excused

Robin K. Davis, Ph.D., Chairman

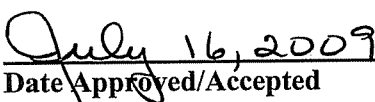
  
Augusta F. McKusick, Vice Chairman

  
Jan Schneider, M.D.

Excused

Susan B. Christie

  
Attorney Job Taylor, III

  
Date Approved/Accepted