

TOWN OF ORLEANS
TOWN CLERKS OFFICE
09 AUG 20 PM 2: 59

TOWN OF ORLEANS - BOARD OF HEALTH

MINUTES OF MEETING

August 6, 2009

The Board of Health convened its meeting at 2:06 p.m. on Thursday, August 6, 2009 in the Skaket Meeting Room of the Orleans Town Hall.

Present: Vice Chair Augusta McKusick, Jan Schneider, M.D., Susan Christie, Attorney Job Taylor, III; and Robert Canning, Health Agent.

Excused: Chair Robin Davis, Ph.D.

Agenda Item 1 – Public/Press

There was no one present for Public/Press.

Agenda Item 10 – Health Agent's Report

Mr. Canning reported on the following:

Temporary Food Service Permits

The Orleans Chamber of Commerce represented by Mary Corr has requested a Temporary Food Service Permit for the Pops in the Park at Eldridge Field on Saturday, August 22, 2009 (rain-date Aug. 23) from 5:00 p.m. to 9:00 p.m. Pre-packaged brownies, cookies, coffee, bottled water and canned soda will be sold. Everything will be pre-packaged and single use articles. Restrooms and Porta-potties will be available onsite. Hand-washing is available at the public restrooms. The organizers have access to the Nauset Regional Middle School kitchen facilities.

On a motion by Attorney Taylor and seconded by Ms. Christie, the Board of Health voted to approve a Temporary Food Service Permit for the Pops in the Park at Eldridge Field on Saturday, August 22, 2009 (rain-date Aug. 23) from 5:00 p.m. to 9:00 p.m. The vote was 4-0-0.

Mr. Canning reported that this next event has already occurred. The **Odd Fellows Lodge**, represented by Paul Davies, requested a Temporary Food Permit to serve hot dogs, hamburgers, bottles and cans of soda and water at the "She Art" exhibit at the Odd Fellows Hall on August 1, 2009 from 11:00 a.m. to 3:00 p.m. Mr. Canning had previously discussed this with the vendor and with the Chairman for permission to allow this event.

On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted to ratify a Temporary Food Service Permit for the "She Art" event at the Odd Fellows Hall on August 1, 2009 from 11:00 a.m. to 3:00 p.m. The vote was 4-0-0.

Retail Food Permits

Cape Coastal Farm Products, represented by Julie Winslow, applied for a Retail Food Permit for sale of shellfish at the Orleans Farmers' Market as required by the MDPH Food Protection Program. Ms. Winslow has provided the Health Department with copies of all pertinent permits and approvals and all food safety documentation as required under a pilot program through the MDPH Food Protection Program, Department of Agricultural Resources and the Division of Marine Fisheries for the sale of shellfish at a farmers' market.

On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted to grant a variance and Retail Food Permit to Cape Coastal Farm Products, restricted to the sale of shellfish under the MDPH pilot program.

Board members discussed licensing from the State and Division of Marine Fisheries.

The vote was 4-0-0.

Snow's Home and Garden, located at 22 Main Street has requested a Retail Food Permit. They have a Food Service Permit but need a Retail Food Permit for the sale of pre-packaged food items.

On a motion by Ms. Christie and seconded by Attorney Taylor, the Board of Health voted to approve a Retail Food Permit for Snow's Home and Garden for the sale of pre-packaged food items. The vote was 4-0-0.

Approval Requests

The Orleans Farmer's Market is seeking permission to have **WIC** (Women, Infants and Children nutrition program) provide samples of salsa with chips and vegetable sticks at their booth once a month at the Orleans Farmers' Market starting on August 22, 2009. Salsa will be prepared at a licensed kitchen. All food items will be transported and held at proper temperatures in coolers. Service will be in individual containers and no self service allowed. There will be no bare hand contact.

This, along with the following three applicants, is an additional vendor to be included under the Orleans Farmers' Market Food Service Permit. Board members discussed how salsa is associated with WIC and the "creep factor" of products, and the need to meet with the Market manager after the season closes to discuss products to be sold at the Orleans Farmers' Market.

Heather Bailey, a current vendor, would like to serve samples and sell ginger lemonade/tea to the Orleans Farmers' Market. The lemonade/tea is made with a simple syrup steeped with ginger and combined with lemon juice or herbal tea. The tea/lemonade will be made in a licensed home kitchen, kept in a cooler with ice and poured to order.

Karen More would like to serve samples and sell "Zinny" which is a drink made with apple cider vinegar, honey and water. Zinny will be made in a licensed home kitchen, kept in a cooler with ice and poured to order.

Cape Cod Cranberry Harvest of Harwich has requested to be a vendor at the Orleans Farmers' Market. Cape Cod Cranberry Harvest of Harwich has a licensed residential kitchen in Harwich. They would like to serve and sell jams, jellies, and chutney.

On a motion by Attorney Taylor and seconded by Ms. Christie, the Board of Health voted to add the above four additional vendors to the Food Service Permit held by the Orleans Farmers' Market. The vote was 4-0-0.

In addition, Mr. Canning reported that **Cape Coastal Farm Products** represented by Julie Winslow will be selling shellfish at the Farmers' Market. On May 14, 2009 the Board of Health approved lobster and shellfish vendors at the Farmers' Market if they have the appropriate local and State Division of Marine Fisheries permits for the harvesting and sale of these products.

Bathing Beaches

On July 23, 2009 the Health Department had to close the beach at Skaket Beach Condominium to swimming. This closure was necessitated by an elevated bacteria count (>400 Enterococcus CFU/100ml). The beach was re-opened the next day upon the results of a subsequent sample (18 CFU/100ml). It was likely caused by runoff from a severe rain storm the previous day.

Daniels Recycling Company, Inc.

On July 30, 2009 the Health Department conducted an inspection of the DRCI facility. At the time of the inspection they observed two items which were not in compliance with the conditions of the Site Assignment: Doors E & F were not secured all the way to the ground and one container at the back edge of the property containing miscellaneous debris was not covered.

The Health Department was contacted on the morning of July 31, 2009 for a reinspection and observed the above items to be in compliance.

The Health Department has received the monthly operational report from Daniels Recycling Company Inc. for the month of June 2009. 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 report states that Daniels Recycling Company in 22 working days received 647 tons of C&D material (29.44 TPD) and 57 tons of brush (2.62 TPD). There were no reported positive results for asbestos.

The Public Hearing for The Minor Modification for Daniels Recycling Co. Inc. is scheduled for September 3, 2009 at 7:00PM in the Nauset Room at the Orleans Town Hall. The hearing will be advertised in the August 9, 2009 Sunday Cape Cod Times.

John P. Hinckley Jr. Affordable Housing Project, 257 Route 6A

The Town Administrator's office has requested that the Board of Health consider waiving the application fees for the development of the John P. Hinckley Jr. Affordable Housing Project. The Health Department application fees for the project are estimated at \$200 for the construction of the septic system.

On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted to waive the fee for the development of the John P. Hinckley Jr. Affordable Housing Project. The vote was 4-0-0.

Agenda Item 2 – Variance Request – 8 Alden Road, Units 1 and 4

Mr. Canning explained the request for variances for a septic system designed to serve two units in a condominium complex.

Mr. Jason Ellis of J.C. Ellis Design Company, representing his clients, Mary Lou Kinnane and Frank and Nancy Wildt, explained that this is a cottage colony; and after inspecting all of the septic systems, this is the only system that would not pass inspection. It consists of two 1000 gallon septic tanks and a very deep leach pit installed in the mid 1970's. He suggests installing a new six-bedroom leach area and retaining the existing septic tanks. He would install a pump chamber to the leach area which would be higher in elevation than the septic tanks. He described the wetlands to which he is requesting a variance from the Orleans Board of Health Regulations.

Board members discussed the location of an abandoned cesspool. Mr. Ellis recommended filling in the cesspool to avoid usage in the future. It was noted that this property is located in the Mill Pond watershed district and it was discussed that the cottages are not used year-round. They expressed concern that there are approximately thirty bedrooms in the ten buildings on the 1.5 acre lot, some of which have the potential of year-round usage. Mr. Ellis noted which septic systems have already been upgraded and he also confirmed that this inspection was the regularly-scheduled inspection of condominium septic systems that discovered the failed system for Units 1 and 4.

On a motion by Attorney Taylor and seconded by Ms. Christie, the Board of Health voted in the matter of 8 Alden Road, Units 1 and 4 to grant the four variances requested in the letter dated July 23, 2009 from J.C. Ellis Design Company regarding 8 Alden Road, Units 1 and 4; with the modification that the abandoned cesspool will be filled with sand. The vote was 4-0-0.

Agenda Item 3 – Variance Request – 23 Herring Brook Way

Mr. Jason Ellis of J.C. Ellis Design Company, representing his clients, Richard Stanton and Veronica Bukowski, explained his request for variances for a septic system upgrade and noted that there are many wetlands involved. The entire property is subject to coastal storm flooding and, under Conservation Commission regulations, is considered a coastal bank. The existing dwelling has three bedrooms and is served by two cesspools. He recommends a mounded, pressure-dosed leach field for a septic system sized for a three-bedroom house and would utilize a pump to assist flow to the raised leach field. Mr. Ellis described a new pump to be used and the maintenance necessary to maintain the leach field in good working order.

Mr. Canning noted a catch basin on the plan and Mr. Ellis explained it is part of a storm drainage system. Mr. Canning explained that a drain would normally be used to lower the groundwater but this system was installed by the town. He also discussed the need to protect the water line.

Board members discussed the relocation of the water line around the proposed leach area. Mr. Ellis explained his recommended location of the water line on the property. It was noted that an existing cesspool will need to be excavated out to allow for the construction of the leach area. They discussed the elevation of the property compared to others in the area.

On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted in the matter of 23 Herring Brook Way to grant the variances requested that there are findings in fact to be submitted with the variance approval. This approval is conditioned upon the restriction of the property to include no expansion beyond the three bedrooms it currently has and no expansion in habitable space.

Board members discussed the likelihood of the addition of a second floor. Mr. Ellis explained the Zoning Regulations that would prevent that expansion.

The vote was 4-0-0.

Agenda Item 4 – Variance Request – 21 Brewster Cross Road

Mr. Jason Ellis of J.C. Ellis Design Company, representing his clients, Brian and Brianna Seppala, explained his request for variances for a septic system installation for new construction. All previous permits had expired and the Conservation Commission has required the location of the proposed building be relocated 75 feet from the resource area and closer to the street. He questioned the definition of a “water course” referring to the drainage system on the abutting property affecting the location of the soil absorption system. He has proposed a structure slightly larger in design flow than that originally approved and requests that the Board of Health rescind the previous deed restriction.

Mr. Canning noted that the previous motion did not restrict the deed to a specific square footage. He also discussed the location of the leaching system and its piping. Also, the septic tank currently in the ground must be relocated as shown in the proposed Septic System Design Plan.

Board members discussed the life of a previously installed septic tank. Mr. Canning explained that previously, only the tank was installed. If the contractor is able to move the septic tank without damage it can be reused.

On a motion by Dr. Schneider and seconded by Ms. Christie, the Board of Health voted in the matter of 21 Brewster Cross Road finding that this is a matter that has come before this Board and was tentatively approved at that time. As a result, a septic tank was placed in the ground, however the situation has changed and the septic tank will need to be relocated. It is agreed that if the septic tank is found to be sound it can be reused in its new location.

The geography of the area is in a wetland resource area and therefore two variances are required. Another complicating factor is that there is an existing drainage watercourse system that drains into a rip rap outfall but although it is called a watercourse it does not connect to any water body. This will need to be protected when the new system is installed. The variances requested are because of the closeness of the soil absorption system to this watercourse and the reserve area also being within 50 feet of this same watercourse.

Recognizing the need for the two variances the Board of Health voted to approve the variances as listed in the J.C. Ellis letter dated July 27, 2009 regarding 21 Brewster Cross Road.

This vote is approved on the condition that a vapor barrier is installed on the eastern edge of the soil absorption system. Also, a deed restriction filed in 2004 dated July 1, 2004 should be rescinded and a new one replacing it limiting the structure to two bedrooms and the office space to 1800 square feet.

The vote was 4-0-0.

Agenda Item 5 – Approval Request – 143 Pochet Road

Mr. David Lyttle of Ryder & Wilcox, representing his clients, Jim and Diane Sapienza, explained his request for approval of the installation of an I/A septic system for their new construction. A four-bedroom dwelling has been approved for construction on the property. He has submitted a revised plan to propose installation of a FAST unit.

Mr. Canning noted this request should fall under general use approval for nitrogen removal and Board members discussed the required maintenance program.

On a motion by Ms. Christie and seconded by Attorney Taylor, the Board of Health voted in the matter of 143 Pochet Road finding that this property has been before the Board before and was approved by the Board. Although it is on a small lot of 26,975 square feet, the owner would like to, under general use approval, introduce an innovative septic system using the FAST unit. The owner voluntarily understands that there is a maintenance program commitment to the system. The plans have been changed accordingly.

The Board of Health voted to approve the request to install an I/A septic system on the property at 143 Pochet Road.

The vote was 4-0-0.

Agenda Item 6 – Hearing Request – 115 Route 6A

Mr. James Cullum explained that he is refinancing his property which precipitated a septic inspection. The septic system is 40 years old and has been working fine.

Mr. Canning noted that the Health Department reviewed the inspection reports and recorded that the systems must be repaired. System A, rated H-10, is located in a parking area which requires components rated H-20. System B has a cesspool and the septic tank is H-10 rated where H-20 is required. He described the construction of the septic system and the further findings of the inspector. The Health Department issued an order to repair the failed septic system. Mr. Canning noted that there are some safety issues that must be addressed, and he showed a diagram giving the location of the septic system components on the property as well as the traffic patterns.

Board members discussed that Mr. Cullum could discuss with an engineer how to modify the components to make them safer for the traffic pattern. Mr. Canning suggested that Mr. Cullum explore his options to close off the driveway to vehicular traffic over the septic systems or consult an engineer for ways to make the structures more sound.

Attorney Taylor suggested that the Board give Mr. Cullum four to six weeks to ensure that the septic system won't fail. Dr. Schneider noted the liability risk to Mr. Cullum should there be an accident. It was proposed to reschedule the hearing to give Mr. Cullum the opportunity to gather facts on how to rectify the safety situation as well as repair of his septic system.

On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted in the matter of 115 Route 6A to continue this hearing until September 17, 2009 at 3:00 p.m. The vote was 4-0-0.

Agenda Item 8 – Show Cause Hearing at 3:00 p.m. – 40 Orie Lane

Attorney William Riley, representing his clients, the Mahendrants, presented possible resolutions regarding the original order. His client expressed concern that the conditions required by the Board of Health were excessive and that they were being singled out. He recognizes that the Board's concern is that there is not a failure of the septic system. He suggested monitoring the water usage, but the owner argued that it would not be accurate because of water usage by the irrigation system and the need to maintain the water level in the pool. The owner has offered to pump the septic tank within 10 days and would pump it again at the end of the

season. In addition, beginning August 15, 2009, the owner has placed the rental of the property with a local rental office and will be restricting the occupancy to eight people.

Mr. Canning read into the record a history of the property as follows:

September 2, 2004 – The Board of Health granted variances for the repair of a septic system serving an existing dwelling. Variances included:

- Setbacks from property lines and foundation
- Soil absorption system greater than 3' below grade (6')

April 13, 2005 – The Health Department issued a Disposal System Construction Permit for a four bedroom dwelling.

June 16, 2005 – The Health Department issued a Certificate of Compliance for the installation of the septic system with an Approved Capacity of 440 gallons per day (4 bedrooms).

July 6, 2006 – Upon the owner's request the Board of Health reviewed a proposal for an addition to the dwelling. After reviewing the traffic patterns and room configurations the Board determined that there would be no increase in the total number of bedrooms. At this meeting the Board of Health required that a restriction be recorded at the Registry of Deeds limiting the dwelling to four bedrooms. (Received 8-24-06)

August 4, 2006 – Because a reserve area could not be located on the site the owner requested the Board of Health approve an increase in footprint of building without showing a reserve area. The Board of Health approved this request.

August 7, 2006 – The Health Department signed off on a building permit application for an addition to a four bedroom dwelling.

August 23, 2006 – A four-bedroom Restriction was recorded at the Registry of Deeds.

August 28, 2008 – Health Department received a complaint regarding 40 Oriole Lane. The complaint stated that the property was being advertised as a seven bedroom dwelling that sleeps 18 people. The complaint also detailed the number of individuals staying at the dwelling as counted by the complainant. (A range from 6 to 18 individuals)

September 9, 2008 – The Health Department issued a notice of violation to the owners. The violations listed were:

Section 15.024 Violations of 310 CMR 15.000

- (1) construction or **use** of a system in any manner that is not in compliance with an applicable Disposal System Construction Permit, Certificate of Compliance, or the terms and conditions of any other approval or order issued by the local Approving Authority or Department;
- (3) **use**, modification, or alteration of a facility in such a way that a larger system is required under 310 CMR 15.000 using the design flows at 310 CMR 15.203 without the approval of the Approving Authority in accordance with 310 CMR 15.000.

September 19, 2008 – The Health Department received a letter from Attorney William Riley stating:

- The owners of the property believe that they are in full compliance with the Orleans Board of Health Regulations and Title 5.
- Offering an on-site inspection of the dwelling.

October 22, 2008 – The Board of Health requested a site visit at 40 Oriole Lane.

November 20, 2008 – The Board of Health conducted a site visit at 40 Oriole Lane.

November 20, 2008 – The Board of Health, at its regular meeting, discussed the site visit. It was the opinion of the Board that the dwelling has been constructed significantly differently than the plans it approved on July 6, 2006. These alterations have changed the total number of bedrooms in the dwelling.

March 9, 2009 – The Board of Health issued an order to the owner of the property citing violations of Title 5 Section 15.024

- (1) construction or **use of a system in any manner that is not in compliance with an applicable Disposal System Construction Permit, Certificate of Compliance**, or the terms and conditions of any other approval or order issued by the local Approving Authority or Department;
- (3) use, modification, or **alteration of a facility in such a way that a larger system is required** under 310 CMR 15.000 using the design flows at 310 CMR 15.203 without the approval of the Approving Authority in accordance with 310 CMR 15.000.
- (10) **Violation of the terms and conditions of a deed restriction**, covenant or easement recorded or imposed pursuant to 310 CMR 15.000.

Compliance could be achieved as follows:

- Create a 6 foot cased opening to the library.
- Reconfigure the basement so that the lounge is open to the game room and reconfigure the stairway.

March 17, 2009 – Atty. Riley requested a hearing regarding the March 9, 2009 order.

April 2, 2009 – The Board held a hearing. Atty. Riley explained that the owner is prepared to alter the doorway to the lounge; however, the changes on the stairway leading to the lounge would involve considerable construction. Atty. Riley requested the Board of Health allow the owners of the property to modify the opening into the lounge, without opening the stairway, and schedule a site visit with the Board to allow them to evaluate the openness of the room. If the Board members were not satisfied with the renovations the owner would proceed with opening the stairway.

The Board voted to continue the hearing. The Board also reiterated that the openness of the stairway was instrumental in its approval of the plans in 2006.

May 21, 2009 – The Board of Health conducted a site visit to observe the alterations to the dwelling.

June 4, 2009 – The Board of Health continued its hearing. Atty. Riley explained that the owners have created a 6 foot opening to the library and have altered the stairway wall by creating a half wall on the lower half stairway.

The Board of Health expressed its dissatisfaction with the alterations to the lower area lounge and voted to continue the hearing to January 7, 2010 with the following conditions:

- Prior to January 1, 2010 the owner must reconfigure the stairway to the lower level to be consistent with what was presented and approved by the Board of Health on July 6, 2006.
- The soil absorption system must be visually inspected weekly by a DEP approved septic system inspector. This inspection, at a minimum must include a measurement of the liquid level in the soil absorption system. The inspection is to be performed at the end of each week during the period of Memorial Day through Labor Day and a report indicating the results of the measurements must be submitted to the Health Department within seven days of the inspection.
- If the liquid level in the soil absorption system reaches a depth of 2 feet (the effective capacity of the system) the system must be immediately pumped to prevent the discharge of sewage onto the top of the ground.

June 15, 2009 – The Health Department issued written documentation of the Board's decision.

July 16, 2009 – The Health Department reported to the Board of Health that it has not been contacted by a system inspector nor has the Health Department received the required weekly reports regarding the liquid level in the soil absorption system. Based on this report a Show Cause Hearing was scheduled for August 6, 2009 at 3:00 p.m. to see why the owners should be found in violation of the March 9, 2009 order and the June 4, 2009 amended order.

July 23, 2009 – Notice of this hearing was sent to the owner of the property.

July 29, 2009 – The Health Department received a letter from Atty. Riley stating that he will attend the August 6, 2009 hearing. Atty. Riley also states the owners are not ignoring the order of the Board but they feel very strongly that they should not be obliged to incur the costs of modifying their septic system so that it can be monitored weekly.

July 29, 2009 – The Health Department received a copy of a July 9, 2009 letter from Atty. Riley stating that the regulations do not grant the Board of Health the authority, under the circumstances present in this case, to order weekly monitoring of the septic system at 40 Oriole Lane.

(End of statement of history read for the record.)

Attorney Taylor spoke to the issue of the authority of the Board of Health to issue orders quoting 310 CMR 15.301-9 which clearly authorizes the Board to order an owner to take action when it appears that an owner is not complying with Title 5. He reviewed that in March, 2009 the owner was given 60 days to bring the property into compliance and it has now been 150 days and the work is not yet completed. He recommended that the Board allow the owner 15 days to comply with the Board of Health orders or they will not be able to occupy the house. He also expressed frustration over the owner's refusal to comply with the Board of Health conditions attached to the building permit. Ms. Christie added that the owner also stated she would not comply with the Board of Health orders in the future.

Dr. Schneider discussed the issues of the number of bedrooms and noted that the owner has flagrantly violated the deed restriction of four bedrooms and then refused to comply with the orders of the Board of Health. He was outraged at the fact that the owner has deliberately overloaded the septic system which has affected the soil and the surrounding environment; and then they refused to have the septic system tested.

Ms. McKusick discussed the decision of the owner to place the rental with a local agent specifying occupation of only eight persons beginning August 15, 2009. Attorney Riley explained why the owner has placed the property for rent through a local rental agent, and he also discussed the remaining carpentry work to open up the stairway in question which he believes will be done as soon as the property is no longer rented for this season.

Attorney Riley explained that the owner is acknowledging that renting the property is risky, and has taken steps to abate the situation by placing the property with a rental agent and establishing a pumping schedule. He discussed the impracticability of having the system inspected weekly. Because of her rental schedule the owner has suggested pumping the septic tank in ten days and then again at the end of the season.

Ms. McKusick reiterated that the Board will be able to inspect the property in January and the rental will be handled by a local realtor; but she is concerned about whether work will be completed before January. Dr. Schneider suggested that there might be a compromise: that the septic tank is pumped by August 15, 2009, obtain confirmation that any future rental agreement mandate that only eight persons are in the house at any one time, and that the ordered carpentry be completed in an acceptable time. Ms. Christie agreed with Dr. Schneider; but because of the location she is concerned that the owner flagrantly allowed the abuse of the septic system. Attorney Taylor was bothered by the promise of a rental agreement that only eight people will occupy the house and the fact that it cannot be enforced, as well as the total disregard of the owner to comply with Board of Health orders.

Mr. Canning discussed the results of frequently pumping a septic system and explained that the Board members should be concerned about an increase in water usage that will strain the septic system on peak days. Pumping the septic tank does not guarantee that the system wouldn't be overloaded. The Board is trying to prevent an overload. He suggested that the owner could install a separate meter for irrigation and pool water use or they could install an inspection port in the leaching field to allow for monitoring. He noted that pumping a septic system, if required, would cause a short imposition to the renters, and that the Water Department could read the water meters for \$40 weekly if separate meters are installed.

On a motion by Ms. McKusick and seconded by Ms. Christie, the Board of Health voted in the matter of 40 Oriole Lane, that the owner pump the septic system in the next ten days and then pump the septic system again at the end of the rental season, but no later than November 1, 2009. Per the last order, the

Board of Health will conduct a site inspection in January to see if the owner has completed the construction as required. A copy of a rental agreement limiting the occupants to eight persons shall be provided to the Board of Health. The vote was 2-1-1 with Attorney Taylor voting opposed and Dr. Schneider voting abstained.

Agenda Item 7 – Hearing Request – 123 South Orleans Road, Units 1, 5, and 6

Ms. Patricia White (Unit 1), also representing Jeffrey Dreyer (Unit 5) and Barbara and Richard Reilly (Unit 6) explained her request for a renewal of the time extension granted previously. They have engineering plans drawn and in place for an immediate need. The two cesspools were inspected in May and found to be functioning well.

Mr. Canning noted that the properties are under order to be repaired because they are cesspools although inspections show they are functioning hydraulically and there is no structural instability. He described the proposed septic system.

Board members discussed the location of the property. It was suggested that the owner consider installation of a Title 5 system that would then allow the owners to delay connection to the sewer line for the reasonable life of the new system.

Ms. White asked about an escrow account and about the elevation of the main in relationship to her property. She also asked about composting toilets and urine-diverting toilets.

On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted in the matter of 123 South Orleans Road to approve a one-year extension of the order to repair/replace the cesspools. The vote was 4-0-0.

Mr. Canning briefly discussed composting toilets and urine-diverting toilets.

Agenda Item 3 – Approve Minutes

The minutes of the Board of Health meeting held on July 16, 2009 had previously been distributed to the Board members for review.

On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted to approve the minutes of the meeting held on July 16, 2009. The vote was 3-0-1. Ms. Christie abstained from this vote.

Agenda Item 11 – Old and New Business / Review Correspondence

11 – 1 A letter from Albert Norgeot of AMAR Laboratories, Inc to the Conservation Commission regarding Eel Pond had previously been distributed to the Board members for review and discussion. Mr. Canning reported that the Conservation Department has taken water samples to determine the content of the pollution. The Highway Manager has also studied the drainage from the Highway Department land.

11 – 2 A letter from George Heufelder of the Barnstable County Department of Health and the Environment regarding the Soil Air System at the Orleans Courthouse had previously been distributed to the Board members for review and discussion. Mr. Canning noted a positive result over the past year.

11 – 3 A letter from the Health Agent to Daniels Recycling Company, Inc. requesting a fee for the public hearing to be held at their request had previously been distributed to the Board members for review and discussion. Mr. Canning reported that the Health Department has received the fee from DRCI and the hearing has been scheduled for September 3, 2009.

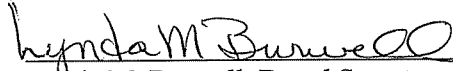
11 – 4 A Nutrient Management Regulation Transition Rule Policy had been distributed to the Board members for review and discussion. It meets the agreement and incorporates those suggestions from Mr. O'Brien.

On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted to approve the Orleans Board of Health Nutrient Management Regulation Transition Rule Policy. The vote was 4-0-0.

Agenda Item 11 – Adjournment

On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted to adjourn this meeting of the Board of Health at 4:40 p.m. The vote was 4-0-0.

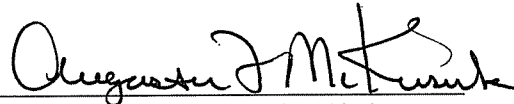
Respectfully submitted,



Lynda M. Burwell, Board Secretary

ORLEANS BOARD OF HEALTH

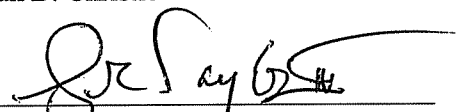
Excused

Robin K. Davis, Ph.D., Chairman


Augusta F. McKusick, Vice Chairman


Jan Schneider, M.D.

Susan B. Christie


Attorney Job Taylor, III

August 20, 2009
Date Approved/Accepted