

## TOWN OF ORLEANS - BOARD OF HEALTH

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### MINUTES OF MEETING

January 7, 2010

The Board of Health convened its meeting at 2:07 p.m. on Thursday, January 7, 2010 in the Skaket Meeting Room of the Orleans Town Hall.

Present: Chair Robin Davis, Ph.D., Vice Chair Augusta McKusick, Susan Christie, Attorney Job Taylor, III; and Robert Canning, Health Agent. Also present: Dale Fuller, Finance Committee Liaison

Excused: Jan Schneider, M.D.

#### **Agenda Item 1 – Public/Press**

There was no one present for Public/Press.

#### **Agenda Item 2 – Discussion – Desmond Well Drilling**

Mr. Thomas Desmond of Desmond Well Drilling, Inc. was present to request a change to the Orleans Private Well Regulations to comply with the State guideline. Mr. Desmond noted that geothermal wells are becoming more popular and he foresees an increase in installations. He explained that the current Orleans Private Well Regulations restrict installation of a geothermal well fifty feet from a septic system, reserve area, or neighbors' septic systems. This makes it difficult to locate a well on some properties. Mr. Desmond outlined the State guidelines requiring a minimum of twenty-five feet from a septic system, reserve area, or neighbors' septic systems for installation of an open loop heat pump well. He asked the Board members to consider changing the Orleans regulations to conform to the State guideline.

Mr. Canning described the criteria used by the Orleans regulations with regard to distance from a septic system and used an example where an inlet well might be located twenty-five feet from a septic system and the discharge well might be twenty-five feet from a potable water well. He expressed concern that the discharge well might deposit contaminated water near enough to the potable water well to affect that water. He suggested that the Board of Health should continue to specify a large enough setback where a potable well is in close proximity to a discharge well.

Mr. Desmond noted that those protections are in the State guideline. He explained the amount of testing involved before a heat pump well can be installed and noted that it is even greater than that for a private potable well.

Board members asked if there are any other areas in the State guidelines that conflict with the Orleans regulations. Mr. Desmond did not know of any at this time but he agreed to more thoroughly compare the State guideline to the Orleans regulations to determine any other issues.

#### **Agenda Item 3 – Health Agent's Report**

Mr. Canning reported on the following:

##### **H1N1**

The Orleans Board of Health would be holding an H1N1 vaccination clinic for Orleans residents on Saturday, January 9, 2010 from 9:00 a.m. to 2:00 p.m. at the Nauset Regional Middle School Cafeteria. This clinic was open to all Orleans residents over the age of 6 months. Pre-registration was required. Registration was available online by going to the Town of Orleans web site at: <http://www.town.orleans.ma.us> (click on H1N1 registration). If individuals did not have internet access they could register by telephone

at (508) 240-3746 Monday thru Friday between the hours of 9:00am to 4:30pm. As of January 7<sup>th</sup>, there were approximately 750 people registered for the clinic. The clinic was posted on the Town website, Channel 18, notice was in both the Cape Codder and Cape Cod Times, the COA put enclosures in each of its Tidings mailings and the Health Department conducted a Code Red call to 3900 households. The Health Department had been accepting pre-registration using a web-based program to register those residents without internet access.

### **Licensing**

As part of the license renewal process every applicant must submit a form stating that they are not more than twelve months past due on any taxes, bills, betterments, assessments or charges owed to the town. This requirement is found in Chapter 64 Fees, Chapter V Nonpayment of Fees and Taxes, Section 6 Grant or Renewal of License or Permits as Affected by Non Payment of Local Taxes or Fees.

Mr. Canning reported that there is one retail food/food service establishment permit holder not in compliance with the provision of Chapter 64 due to an outstanding tax bill. However, as of January 7<sup>th</sup> they had paid their entire water bill and forty percent of their tax bill and expected to pay the remainder of the tax bill shortly.

Chapter 64 states that the Licensing authority may deny, revoke or suspend any license or permit, including renewals of any party that has neglected to pay local taxes provided that written notice is given to the party and a hearing is held (not earlier than 14 days after said notice). Mr. Canning asked the Board members if they were interested in holding a hearing to revoke or suspend the license.

Attorney Taylor suggested that the Board of Health allow them ten days to pay the remainder of their tax bill. If they do not pay within that period the Board would then hold a public hearing on the matter.

### **Licensing**

Mr. Canning informed the Board members of the great job Bonnie Campbell has done on the licensing this year. The Health Department has been holding and coordinating H1N1 clinics this year as well as adjusting to a significant cut in the clerical staffing hours. Through all this Bonnie was able to process all of the annual licenses (approximately 350) on time for FY2010. She has done a great job! The Board members also expressed their appreciation for Bonnie's efforts.

### **John Hinckley Estates – 257 Route 6A**

The State has denied a variance for the John Hinckley Estates, the proposed affordable housing project. Mr. Canning explained that approximately six weeks ago the Board of Health approved a variance for a shared septic system on that site, which then required State approval. The State is requesting additional information about the easements and a sample deed. The proponent must also demonstrate that a full-sized septic system and reserve area can be located on the property as well as justify placement of the septic system under pavement. He expects that the proponent can successfully reply within the required sixty days.

### **Agenda Item 4 – Approve Minutes**

The minutes of the Board of Health meeting held on December 17, 2009 had previously been distributed to the Board members for review.

**On a motion by Ms. Christie and seconded by Attorney Taylor, the Board of Health voted to approve the minutes of the meeting held on December 17, 2009 as presented. The vote was 4-0-0.**

### **Agenda Item 5 – Old and New Business / Review Correspondence**

Ms. Christie inquired about the property on Surfboat Lane that was discussed last month. Mr. Canning reported that he had sent a letter to the owner and had not yet received a response.

Material for discussion of rental properties had previously been distributed to the Board members for review. Mr. Canning explained that this is informational material in preparation for the joint meeting with the Planning Board on January 12<sup>th</sup>. He reviewed each town's regulations, and then reviewed the criteria that the Board of Health can use to determine occupancy, specifically the State Housing Code, Chapter II and the State Sanitary Code, Title 5.

Chapter II, Minimum Standards for Habitation, outlines the minimum square footage for a single family home as 150 square feet for the first occupant, then 100 square feet for each additional person in a dwelling. The second criterion for occupancy is the square footage of bedrooms. A single family home is required to have 70 square feet in a bedroom for one person, then 50 square feet for each additional person in a bedroom. Many large homes have three or four bedrooms of 300 or 400 square feet. When applying the Housing Code, the lowest number of two conflicting numbers must be used. The total square footage of the house must first be determined, and then the square footage of each individual bedroom.

A Title 5 septic system is based on bedroom count utilizing 110 gallons of septic capacity per bedroom. Title 5 does not restrict the occupancy of a bedroom to two people.

Attorney Taylor questioned that allowing more than two people per bedroom would abuse a septic system, therefore violating Title 5. Mr. Canning explained that, in a recent situation, Title 5 was violated because the owner had altered the house to create additional bedrooms so they could increase the number of occupants, thereby increasing the flow to the septic system. He noted that Chapter II is useful to control occupancy in smaller houses and cottages.

Both Yarmouth and Dennis have a Housing Rental Program consisting of one inspector plus clerical staff dedicated only to inspections and permits. Mr. Canning expressed concern that in order to protect the town, a thorough housing inspection must be conducted before issuing a rental permit, and there is no money in the budget at this time for additional staff. An initial house inspection could take up to twenty hours if major problems are discovered and any reasonable fee would not cover that cost.

Ms. McKusick suggested that at the joint meeting with the Planning Board, the Board of Health must articulate the concerns and issues; then discuss remediation and the best method of implementation. She expressed sympathy for neighbors affected by overcrowded rental properties. She suggested that the known community standard occupancy of bedrooms be used as a basis for discussion purposes.

Ms. Christie noted that having a permit document posted in the house stating the maximum number of occupants could allow for better enforcement when exceeded. It was noted that Barnstable differentiates between adults and children/infants as occupants.

Mr. Canning reviewed the issues of noise and parking noting they are not within the purview of the Board of Health. Ms. McKusick suggested the need for a bylaw. It was discussed that the Planning Board would propose a bylaw which would then be discussed with Selectmen who would then send it to Town Meeting and to a ballot vote for approval before it could be enacted and enforced. She suggested sharing a half-time Housing Inspector with another town.

Attorney Taylor opined that this is an insurmountable problem because of budget constraints and posting signs may not control the number of occupants. However, it will be helpful to air these issues at the Planning Board meeting.

Mr. Canning explained that the Health Department cannot just show up to inspect a dwelling without first notifying the owner and/or tenant. It would be necessary to explore how to determine if overcrowding existed.

Ms. McKusick discussed establishing a room tax on rental property. Mr. Fuller acknowledged that the Finance Committee discussed the issue last year and researched it with other towns. It was noted that the town does not want to seem unfriendly to visitors and vacationers, but these conditions are starting to cost the town money and it is necessary to determine a way to recoup some of that money.

Attorney Taylor noted that most merchants in town count on Orleans being a people-friendly vacation town. Ms. McKusick noted that this is a real problem, and the regulations available to the Board of Health are not enforceable. It seems that the town must develop a bylaw that can be enforced.

5 – 2 A letter from the Town of Brewster Comprehensive Water Planning Committee dated December 14, 2009 had previously been distributed to the Board members for review and discussion.

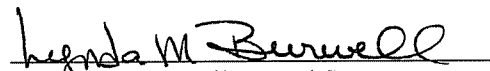
5 – 3 A letter from the Cape Cod Commission regarding Ocean Management Planning District of Critical Planning Concern dated December 18, 2009 had previously been distributed to the Board members for review and discussion.

5 – 4 The minutes from the November 4, 2009 meeting of the Orleans, Brewster, Eastham Groundwater Protection District Board of Managers had previously been distributed to the Board members for review and discussion.

### **Agenda Item 7 – Adjournment**


**On a motion by Attorney Taylor and seconded by Ms. McKusick, the Board of Health voted to adjourn this meeting of the Board of Health at 2:45 p.m. The vote was 4-0-0.**

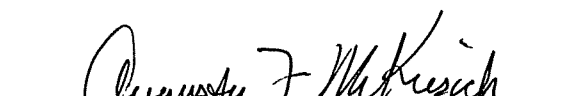
Respectfully submitted,

  
Lynda M. Burwell, Board Secretary

### **ORLEANS BOARD OF HEALTH**

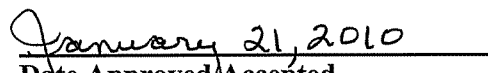
  
Robin K. Davis, Ph.D., Chairman

  
Susan B. Christie

  
Augusta F. McKusick, Vice Chairman

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Attorney Job Taylor, III

Excused  
Jan Schneider, M.D.

  
Date Approved/Accepted