

## TOWN OF ORLEANS - BOARD OF HEALTH

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### MINUTES OF MEETING

February 18, 2010

The Board of Health convened its meeting at 2:00 p.m. on Thursday, February 18, 2010 in the Skaket Meeting Room of the Orleans Town Hall.

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

Excused: Chair Robin Davis, Ph.D., Vice Chair Augusta McKusick

#### **Agenda Item 1 – Public/Press**

There was no one present for Public/Press.

#### **Agenda Item 3 – Approval Request for Definitive Subdivision – 232 Tonset Road**

Mr. John Demarest of Coastal Engineering Company, Inc., representing Harry E. Hunt, III, owner of the property at 232 Tonset Road, had submitted to the Planning Board the Definitive Subdivision Plan for the subject property. He explained the subdivision of two lots Lot 1 having 54,742 square feet, and Lot 2 having 60,121 square feet. Lot 1 has an existing single family dwelling.

Mr. Canning noted that when there is a division of land, Title 5 requires that any existing septic system be inspected. If there is a cesspool, Orleans regulations consider it an automatic failure. He also read from the Orleans Nutrient Management Regulations that require that *division of land with existing dwellings shall not render it (that existing property) noncompliant with the regulation*. According to that regulation, Lot 1 with 54,000 square feet would be limited to five (5) bedrooms. Lot 2, according to the Nutrient Management Regulations, consists of 60,000 square feet and would be limited to six (6) bedrooms.

Board members discussed the location of the proposed dwelling and septic system on Lot 2. Mr. Demarest indicated that information on the plan noting that it could change depending on size of dwelling, setbacks and topography.

There were no abutters present.

**On a motion by Attorney Taylor and seconded by Ms. Christie, the Board of Health voted to approve the subdivision with the following conditions: 1) The septic systems must comply with Title 5. 2) Town water must be made available to both lots. 3) The existing septic system must be inspected according to Title 5. 4) The Board of Health requires confirmation that the existing house on Lot 1 has five bedrooms or less. The vote was 3-0-0.**

#### **Agenda Item 4 – Hearing Request – 9 Morgan's Way**

Mr. Thomas (Will) Joy, owner of the property at 9 Morgan's Way, discussed his request to keep his cottage cesspool at its location until his property is sold. Mr. Joy noted that he has had the cesspool inspected and pumped every year, and that the cottage is only for seasonal use.

Mr. Canning commented that in 2006 Mr. Joy requested a subdivision of his property and divided it into three lots. Title 5 regulations state that subdivision of land requires an inspection of the septic systems on the property. The inspection as a result of the subdivision revealed the cesspool for the cottage. Pumping records show that the cesspool should be classified as failed. The Health Department issued an order to replace that cesspool with a Title 5 compliant septic system in August 2006. The Board of Health has granted an extension of time to complete the repair three times since that initial order. There were condi-

tions placed on the extensions for monitoring and pumping of the system. Subsequent inspections have shown that the liquid level has been at the invert pipe and Title 5 requires that the liquid level be six (6) inches below that pipe. In 2009 the Board of Health requested a summer inspection and pumping if necessary. The cesspool was inspected and pumped in August 2009.

Attorney Taylor commented that an extension seemed logical; however, Ms. Christie questioned why Mr. Joy had not had the cesspool pumped at the end of the season. Mr. Joy explained that the cottage had greater than normal usage in August and that is why he had the system pumped in August. He didn't realize he was required to have the cesspool pumped and inspected again at the end of the season.

Attorney Taylor explained that since Mr. Joy had not complied with the conditions of his agreement he rescinded his thoughts about an extension unless Mr. Joy complies with the prior conditions. Mr. Joy offered that it might be more useful to have the cesspool pumped in July and again in October for inspection. Ms. Christie agreed with that schedule.

Dr. Schneider asked Mr. Joy if he has a long-term plan for his property. Mr. Joy explained that the house was for sale but he has since taken it off the market. He acknowledged that he must replace the cesspool if the house is sold, however it will require removal of trees and would be a difficult installation.

Mr. Canning explained that 2009 was the first time Mr. Joy was required to inspect and pump the cesspool twice during the year. Dr. Schneider suggested installation of an alarm system.

There were no abutters present.

**On a motion by Ms. Christie and seconded by Attorney Taylor, the Board of Health voted to continue to grant an extension on 9 Morgan's Way, the cottage, which is presently on a cesspool and is rented during the summer. Conditions are as follows: 1) Continuation of inspections, one in July and one in October to be aware of the condition of the cesspool. 2) Establish some method of monitoring the liquid level in the cesspool during the course of the rental season. 3) Inspection reports during the rental season must be submitted to the Health Department. The vote was 3-0-0.**

### **Agenda Item 2 – Variance Request – 106 Beach Road**

Mr. David Lajoie of FELCO, Inc., represented Douglas Nickerson (also present), owner of the property at 106 Beach Road. Mr. Lajoie explained his request for a new variance to the Orleans Board of Health Regulations for Subsurface Sewage Disposal, Section 185-17.3 (c) (1), to allow a waste line between the septic tank and the soil absorption system to be located on a lot other than the lot it serves. Mr. Lajoie explained further that Lot 2 is currently for sale, and when it is sold the septic waste line will need to cross the corner of Lot 1 to reach the leaching facility in the panhandle. The Conservation Commission mandated that the owner avoid the vegetated wetland on Lot 2 with the waste line, therefore requiring an easement, and variance from the Board of Health.

Mr. Canning explained that the Board of Health had previously granted a variance in 2008 and 2009 and the proponents are again applying for a variance to allow the waste line to cross the abutting Lot 1. He noted that one of the previous conditions to the variance had been that the owner of Lot 1 must grant an easement to the owner of Lot 2 for the purpose of allowing the waste line installation. It must also allow the repair and maintenance of the septic system on Lot 1. A second condition was that the system designer must certify that the installation of the waste line serving Lot 2 does not have a negative impact on the soil absorption system for Lot 1 because of their close proximity.

Board members discussed the distance between the existing leach pit and the new line. Mr. Lajoie explained that the new line is 2-3 feet away from the leach pit and higher in elevation.

Dr. Schneider inquired if Mr. Nickerson owns the dwelling on Lot 1, to which Mr. Nickerson replied that he does own it and it is used on a seasonal basis.

There were no abutters present.

**On a motion by Attorney Taylor and seconded by Ms. Christie, the Board of Health voted to continue the variance until February 18, 2011 with the same conditions as before. The vote was 3-0-0.**

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

The minutes of the Board of Health meeting held on February 4, 2010 had previously been distributed to the Board members for review.

**On a motion by Attorney Taylor and seconded by Ms. Christie, the Board of Health voted to approve as presented the minutes of the meeting held on February 4, 2010. The vote was 3-0-0.**

### **Agenda Item 6 – Health Agent's Report**

Mr. Canning reported on the following:

#### **Temporary Food Permits**

##### **Orleans Elementary School**

Mary DeBartolo and Kathy Meyers have requested a Temporary Food Permit for a Curator's Reception for the Fourth Grade class to be held in the Crane Gallery at Snow Library on Friday, March 12, 2010 from 1:00 to 3:00 p.m. Finger sandwiches, cookies, mini muffins, strawberries, water, juice and soda will be served. A variance is requested to allow them to serve unwrapped sandwiches.

Finger sandwiches will be purchased from Cape Cup and will be on a covered platter until service. Cookies, muffins, water, juice and soda will be store bought. Tongs or wax paper will be used for service. Everything will be single use articles. Restrooms and hand washing facilities are available onsite. Hand sanitizer and wet wipes will be available for easy access in area of food service.

**On a motion by Attorney Taylor and seconded by Ms. Christie, the Board of Health voted to grant the request. The vote was 3-0-0.**

##### **Snow Library**

Bobbi Eldridge has requested a Temporary Food Permit for the Artists Reception to be held at Snow Library on the second Saturday of each month. The Board of Health must ratify the event that occurred on Saturday February 13, 2010. Other event dates are April 10, May 8, June 12, July 10, August 14, September 11, October 9, November 13, and December 11, 2010. Store bought cookies, breads and pre-portioned packaged cheeses, bottled beverages and punch will be served.

Beverages will be served from multi-serving containers into plastic cups. Tongs or wax paper will be used to serve the cookies, breads, and cheese. Hand washing and toilet facilities will be available on-site. Everything will be single use articles.

**On a motion by Ms. Christie and seconded by Attorney Taylor, the Board of Health voted to approve the request. The vote was 3-0-0.**

#### **NSTAR Yearly Operation Plan**

The town has received NSTAR's 2010 Yearly Operation Plan for the integrated vegetation management program on its Rights-of-Way. The plan indicates that Rights-of-Way (ROW) 319, which runs through the town's watershed, and ROW 349 which runs from Rte 6A to Eastham are included in the 2010 maintenance schedule.

NSTAR utilizes an integrated vegetation management program which includes the application of herbicides, mechanical and natural control techniques. The plan states that the herbicides will be selectively applied to target vegetation by experienced and licensed applicators who walk along the ROWs using back pack equipment.

Board members discussed that NSTAR had voluntarily agreed to wait until June 2010 to do the 2009 work. Mr. Canning explained that the Operation Plan for 2010 has been distributed for comment.

Mr. Carron offered that the Board of Selectmen has written a very strong letter to the Governor and State Representatives opposing NSTAR's plan to use herbicides.

Mr. Canning explained further that the purpose of the notification is to request that the town notify NSTAR of any additional sensitive areas located on or near the ROWs. Last year when reviewing ROW 349 the Health Department notified NSTAR of three private potable water wells and several wetlands located in close proximity to the ROWs. These wells are now identified on the 2010 Operation Plan.

He continued that the Operation Plan identifies limited spray areas (which includes Zone II, 50-100 feet from private wells, etc.). However they state that they would only use sensitive-area approved herbicides in the entire ROW. The plan also identifies no-spray areas (Zone I, within 50 feet of private drinking water wells etc.).

The 2010 Operation Plan includes the town watershed, however the Operation Plan does not map Zone II as a sensitive area because they only use herbicides approved for use in that type of sensitive area. The plan does show wells #1 - #6 (none which are located within 400 feet of the ROW). The plan should indicate proposed well #8.

Mr. Canning explained that the Board of Health could issue a statement that they are opposed to the use of herbicides in the watershed where alternate methods of vegetation management are available. He also suggested that they reiterate last years comments on ROW 349, submit a map showing the town watershed that includes well locations, zones of contribution, and proposed well #8. He will search Health Department records for additional private wells in ROW 319.

**On a motion by Attorney Taylor and seconded by Ms. Christie, the Board of Health voted to have the Health Agent write a letter on behalf of the Board of Health, putting forth the Board of Health's views on using any methods that will not affect our water supply or environment along similar lines of the letter that was written by the Board of Selectmen and the Conservation Commission. The vote was 3-0-0.**

### **Agenda Item 7 – Old and New Business / Review Correspondence**

7 – 1 A letter from the Department of Environmental Protection to The Community of Jesus regarding its Draft Groundwater Discharge Permit had previously been distributed to the Board members for review and discussion. Ms. Christie commented on the extensive testing being required by the State.

7 – 2 The Bi-Monthly Transfer Station Inspection Report from Stearns & Wheeler GHD had previously been distributed to the Board members for review and discussion.

7 – 3 A letter from the Orleans Health Department to Dushyanthi Mahendran regarding compliance at 40 Orié Lane had previously been distributed to the Board members for review and discussion.

7 – 4 A letter from the Town Administrator to Mr. Canning regarding the very successful vaccination clinics had previously been distributed to the Board members for review and discussion. Dr. Schneider agreed that all of the clinics went very smoothly. Attorney Taylor commended Mr. Canning on the clinics held at the Orleans Senior Center.

7 – 5 A meeting notice for Wastewater and Contaminants of Concern had previously been distributed to the Board members for review and discussion.

Mr. Carron noted that the Board of Selectmen had reviewed the Health Department budget and expressed concern over the six percent cut in its budget, primarily because of reduced staffing. The Selectmen requested that the Town Administrator meet with the Board of Health to discuss the budget before it is approved. Dr. Schneider reiterated that most of the work done by the Health Department is mandated by

outside agencies and there is no way to reduce or eliminate any of the required duties. He expressed appreciation from the Board of Health for the additional consideration.

**Agenda Item 8 – Adjournment**

**On a motion by Attorney Taylor and seconded by Ms. Christie, the Board of Health voted to adjourn this meeting of the Board of Health at 2:50 p.m. The vote was 3-0-0.**

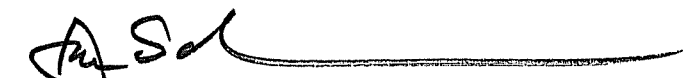
Respectfully submitted,


  
Lynda M. Burwell, Board Secretary

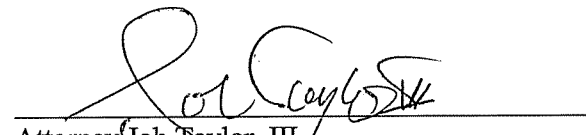
**ORLEANS BOARD OF HEALTH**

Excused  
Robin K. Davis, Ph.D., Chairman

Excused  
Augusta F. McKusick, Vice Chairman

  
Jan Schneider, M.D.

  
Susan B. Christie

  
Attorney Job Taylor, III

April 1, 2010  
Date Approved/Accepted