

TOWN OF ORLEANS - BOARD OF HEALTH

MINUTES OF MEETING

March 4, 2010

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The Board of Health convened its meeting at 2:08 p.m. on Thursday, March 4, 2010 in the Skaket Meeting Room of the Orleans Town Hall.

Present: Chair, Robin Davis, Ph.D., Susan Christie, and Attorney Job Taylor, III; and Robert Canning, Health Agent.

Excused: Vice Chair Augusta McKusick and Jan Schneider, M.D.

Agenda Item 1 – Public/Press

There was no one present for Public/Press.

Agenda Item 2 – Variance Request – 47 Whites Path

Mr. J. Bruce Hirschberg, owner of the property at 47 Whites Path, explained his request for a variance from the Orleans Board of Health Underground Storage Tanks Regulation in order to install an underground propane storage tank with a capacity of 1000 gallons. He noted that no one manufactures a double-wall storage tank for storage of propane. During installation, two sacrificial magnesium anode tags would be buried with the tank to prevent electrolysis and deterioration of the tank.

Mr. Canning explained that the original regulation was written because of underground storage of fuel oil and other liquids, and that the Board of Health has granted this variance in the past. They discussed that the liquid propane becomes a gas when it is no longer under pressure.

Board members discussed establishing a policy that the Health Agent could approve this action in the future and bring it to the Board for ratification. They also discussed that there is no need for periodic testing and that propane would not contaminate the soil because it evaporates if it escapes the tank.

There were no abutters present.

On a motion by Attorney Taylor and seconded by Ms. Christie, the Board of Health voted to approve the variance requested for 47 Whites Path. The vote was 3-0-0.

Mr. Canning offered to write a policy for the Board's approval at the next meeting.

Agenda Item 3 – Discussion – Cape Cod Regional Tobacco Control Program

Mr. Robert Collett, director of the Cape Cod Regional Tobacco Control Program, discussed emerging tobacco products recently introduced to the market. In spite of tobacco control regulations in place, the tobacco industry has developed other innovative tobacco products especially attractive to younger markets. He quoted statistics that teens that smoke or use tobacco products are more likely to drink alcoholic beverages, smoke marijuana, and move on to other abusive drugs.

Mr. Collett passed around samples of new tobacco products such as dissolvable orbs that look like tic tac's. Because they look like tic tac's, the user might not be aware of how much nicotine they are ingesting and might become quite ill as a result of overdose. A small warning on the package notes the user could develop gum disease and tooth problems but no mention of cardiac complications.

Mr. Canning described how Mr. Collett has young people go to stores to see if they can buy tobacco

products and whether the store clerk follows protocol to ask for identification.

Mr. Collett showed a package holding a single cigarette that looked very much like a lip balm. The sale of these products is prohibited in Massachusetts. He also showed flavored cigars (Blunt and Tip cigars) that are typically hollowed out and filled with marijuana, as well as Blunt wraps in various attractive packages.

Mr. Collett discussed a Hookah/Shisha which is used to smoke products through water or steam in which the nicotine is very concentrated. Mr. Canning noted that the sale of Hookah tobacco is prevalent on the Cape, apparently for use in private homes.

Snus is a smokeless tobacco product that comes in small pouches for use similar to chewing tobacco with similar health affects as chewing tobacco. This has been observed for sale in Orleans retailers. Areva is another smokeless, dissolvable tobacco that has been promoted for use in smoking cessation although it is a nicotine product that is more dangerous than cigarettes. Electronic cigarettes, run by batteries, do not use tobacco but use a cartridge of nicotine solution that is inhaled. Mr. Collett also demonstrated another product called NicoGel which is applied to the skin similar to hand sanitizer.

With the exception of the E-cigarettes, Mr. Collett noted that all of these products are available at retailers in Orleans. He urged that the website makesmokinghistory.org be placed on the Orleans website to make the information on it readily available to townspeople, and that the Board of Health amend their tobacco control regulations to include the various products he had discussed and demonstrated.

Agenda Item 4 – Approve Minutes

The minutes of the Board of Health meeting held on February 18, 2010 had previously been distributed to the Board members for review. Because Dr. Davis was not present at that meeting the Board of Health could not approve the minutes until the next meeting.

Agenda Item 5 – Health Agent's Report

Mr. Canning reported on the following:

Temporary Food Permits

Snow Library

Ms. Mary Reuland has requested a Temporary Food Permit for a Teen Movie Night at Snow Library on Friday, March 5, 2010 and April 9, 2010 from 4:00 p.m. to 5:30 p.m. They may serve pizza from a local restaurant, pre-packaged popcorn and candy, and soda (either canned or poured from two liter bottles). All food will be purchased from licensed food establishments. Beverages will be served from multi-serving containers into plastic cups or from individual cans. Tongs or waxed 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. The serving of pizza requires a variance.

On a motion by Dr. Davis and seconded by Attorney Taylor, the Board of Health voted to grant the Temporary Food Permit and variance to serve pizza for a Teen Movie Night at Snow Library on Friday, March 5, 2010 and April 9, 2010 from 4:00 p.m. to 5:30 p.m. The vote was 3-0-0.

Orleans Cultural Council

Ms. Joana Keeley has requested a Temporary Food Permit for an Art Reception Fair to be held at Town Hall from 6:30 p.m. to 7:30 p.m. on Friday, March 5, 2010. Cookies, pretzels, crackers, punch, grapes, and pre-cut fruit will be served. All food will be purchased from licensed food establishments. Beverages will be served from multi-serving containers into plastic cups. Tongs, toothpicks or waxed paper will

be used for serving. Hand washing and toilet facilities are available on site. Everything will be single use articles. The serving of cut fruit requires a variance.

On a motion by Attorney Taylor and seconded by Ms. Christie, the Board of Health voted to approve the Temporary Food Permit and variance to serve pre-cut fruit at the Art Reception to be held by the Orleans Cultural Council at the Orleans Town Hall on Friday, March 5, 2010 from 6:30 p.m. to 7:30 p.m. The vote was 3-0-0.

Orleans Board of Health Rabies Clinic

The Orleans Board of Health will be hosting the annual Rabies Clinic on Saturday, March 27, 2010 from 9:00 a.m. to 12:00 p.m. at the Animal Hospital of Orleans at 65 Finlay Road. The clinic is open to cats, dogs, and ferrets. The vaccination fee is \$10 per animal and will be administered by the Animal Hospital of Orleans. Cats and ferrets must be in a carrying case and dogs must be leashed.

Based on previous vaccination status, immunizations are valid for one or three year periods. Proof of previous vaccination, within the past year, must be provided to receive a three-year vaccination. The vaccination of pets is vital. They have been identified as a link between rabies and humans and State law requires that all dogs, cats, and ferrets six months or older must be vaccinated against rabies.

232 Tonset Road

On February 18, 2010 the Board of Health heard a proposal for a definitive subdivision plan for 232 Tonset Road. After discussing the proposal the Board approved the subdivision conditioned upon:

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. Confirmation that the existing house on Lot 1 has five bedrooms or less.

On February 22, 2010 the Health Department received a complaint about the property. The complaint was that the property at 232 Tonset Road is creating a public health nuisance due to the accumulation of material. Many portions of the property are filled with various materials creating an insect and rodent harborage as well as a threat to the groundwater.

The Health Department and Planning Department staff went to the property in regard to the complaint. Although no one was home, a cursory view of the site showed that there were several un-rimmed tires, paint cans exposed to the elements and rusting, several boats, several gas cans, five unregistered cars, old motors, several items that could potentially hold water, 50 to 100 lobster traps and buoys piled on the ground, and a large area of land that appears to have been filled with brush and yard waste.

Mr. Canning proposed that Board members might want to amend or withhold their approval of the subdivision plan until the owner addresses the refuse on the property. Board members discussed the issue and agreed that the Health Agent should write a letter that approval of the subdivision is pending the removal of any public health and environmental nuisance.

On a motion by Attorney Taylor and seconded by Ms. Christie, the Board of Health voted that the Health Agent should write a letter to the owner that the Board of Health does not approve the subdivision of land at 232 Tonset Road pending removal of any public health and environmental nuisance. The vote was 3-0-0.

Agenda Item 6 – Old and New Business / Review Correspondence

6 – 1 A letter from the Department of Public Health regarding the Plan of Correction at the Police Department had previously been distributed to the Board members for review and discussion.

6 – 2 The Orleans, Brewster, Eastham Groundwater Protection District Board of Managers Meeting minutes for January 15, 2010 had previously been distributed to the Board members for review and discussion.

6 – 3 A letter from the Orleans Health Department to Daniels Recycling Company, Inc. regarding deficiencies noted in the recent inspection had previously been distributed to the Board members for review and discussion.

6 – 4 A complaint regarding 232 Tonset Road had previously been distributed to the Board members for review and discussion. This was discussed during the Health Agent's Report.

6 – 5 A letter from the Board of Health regarding the NSTAR 2010 Yearly Operational Plan had previously been distributed to the Board members for review and discussion.

Ms. Christie discussed that the Dept. of Agriculture controls the application of pesticides and herbicides and Mr. Canning explained that the town has no control over the local application. He noted that Town Counsel is exploring options for the town with regard to this issue. Dr. Davis will ask Mass. Pesticide Bureau for an explanation of its reason for allowing pesticide use by NSTAR in sensitive watershed locations.

6 – 6 A letter from the Board of Selectmen regarding the NSTAR 2010 Yearly Operational Plan had previously been distributed to the Board members for review and discussion.

6 – 7 A letter from the Conservation Commission regarding the NSTAR 2010 Yearly Operational Plan had previously been distributed to the Board members for review and discussion.

6 – 8 A draft of the Orleans Board of Health Habitable Room/Minimum Dimension Policy had previously been distributed to the Board members for review and discussion.

On a motion by Attorney Taylor and seconded by Ms. Christie, the Board of Health voted to adopt the Habitable Room/Minimum Dimension Policy as follows:

Whereas the purpose of Title 5 and the Orleans Board of Health Regulations is, in part, to accurately define the sewage flow from a facility, and whereas a room with a horizontal dimension of less than seven (7') feet is not considered a habitable room per the State Building Code, the Board of Health has determined that such a room should not be counted in the total bedroom count of a dwelling unit for the purpose of designing a septic system.

The vote was 3-0-0.

6 – 9 A Hearing Notice from the Cape Cod Commission for a hearing on March 5, 2010 regarding the proposed Orleans Stop & Shop Gas Station had previously been distributed to the Board members for review and discussion.

New Business

Mr. Canning requested a bedroom determination for the property at 4 Sparrow Drive regarding a breakfast nook. There is a breakfast nook off the kitchen with seven feet of opening, but there is a four-foot opening on one side and a three-foot opening on the other side of a bearing wall. The room also has seven windows.


It was the consensus of the Board of Health that the existing breakfast nook would not be considered a bedroom.

Mr. Canning announced that because the Board of Health will not have a quorum at its next scheduled meeting on March 18, 2010, that meeting should be canceled, and the next meeting of the Board of Health will be held on Thursday, April 1, 2010.


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 3:13 p.m. The vote was 3-0-0.

Respectfully submitted,



Lynda M. Burwell, Board Secretary

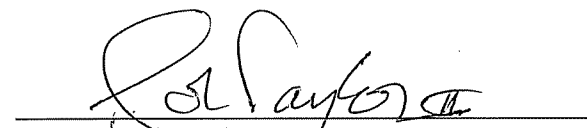
ORLEANS BOARD OF HEALTH

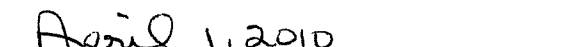

Robin K. Davis, Ph.D., Chairman

Excused
Augusta F. McKusick, Vice Chairman

Excused
Jan Schneider, M.D.


Susan B. Christie


Attorney Job Taylor, III


Date Approved/Accepted