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## TOWN OF ORLEANS – BOARD OF HEALTH

### MINUTES OF MEETING

May 20, 2010

The Board of Health convened its meeting at 1:05 p.m. on Thursday, May 20, 2010 in the Skaket Meeting Room of the Orleans Town Hall.

Present: Chair, Robin Davis, Ph.D., Vice Chair Augusta McKusick and Jan Schneider, M.D.; and Robert Canning, Health Agent.

Excused: Attorney Job Taylor, III

#### **Agenda Item 1 – Board of Health Reorganization and Appointments**

Election of officers was delayed until all Board members are present.

**On a motion by Ms. McKusick and seconded by Dr. Schneider, Board members congratulated Susan Christie on her election to the Board of Selectmen and expressed their appreciation for her years of service on the Board of Health. The vote was 3-0-0.**

#### **Agenda Item 2 – Public/Press**

There was no one present for Public/Press.

#### **Agenda Item 3 – Hearing Request – 310 South Orleans Road**

Mr. John Clark, trustee and president of the board of the Golden Eagle Condominiums, was present to discuss the outdated septic systems at that location.

Mr. Canning noted that an order was issued in 2001 to repair the septic system. At that time there were a few collapsed cesspools which resulted in emergency repairs at that time. The owners were requested to consider a community septic system on the site and had plans drafted for an I/A system for all units. Since that time they have requested an annual extension pending the town's wastewater decisions. In 2008 the Board of Health granted an extension with the condition that all cesspools be inspected for structural integrity. The Health Department received a recent inspection report from Wall Septic Service indicating that all cesspools seem to be structurally sound.

Mr. Clark confirmed that they are again requesting an extension for another year, and that they will continue having the septic systems pumped and inspected each year. He also indicated that the escrow account is in place and the funds are restricted to be used only for septic system repair or replacement.

Board members discussed that the owners have been very cooperative in meeting the conditions of the extensions, however, at this point in time there is no indication of when the town will proceed with sewers. Ms. McKusick indicated that something will need to be done with the septic systems in the Arey's Pond area. She also noted that it might not be necessary for the Golden Eagle Condominiums to install anything more complex than a standard Title 5 septic system. Dr. Schneider inquired if the association has sufficient funds in the escrow account to cover the cost of a new septic system to which Mr. Clark responded that their escrow account of \$83,000 was sufficient to cover that cost in 2002. Dr. Schneider also inquired if one cesspool fails would it be necessary to replace the whole system at that time. Mr. Canning explained that in the past when a system failed (not hydraulic failure) the owners were allowed to replace just that one cesspool. Board members discussed modifying the current order in place to adapt plans to install a Title 5 system without advanced nitrogen removing technology.

Mr. Clark noted that the owners don't want to spend the money to install a Title 5 septic system for the community if the sewers are imminent.

Mr. Canning noted there are three matters to consider: escrow account, possible long-term town-wide solution, and what should be done if one unit's septic system needs to be replaced.

Board members discussed the number of bedrooms in all the buildings on the property. It was noted on a plan that there are 30 bedrooms.

Options for the condominium association to consider include:

- Continue as they are while requesting another extension.
- Have a meeting with association members the repair/replacement now.
- If a cesspool fails, pump and repair immediately.

Dr. Schneider noted that if one unit fails, it is his understanding that the Health Department will approve repair of that one system.

Ms. McKusick explained that the Wastewater Management Steering Committee is hoping for movement on the sewerage sometime in the next year. However, this Board is trying to avoid having the Golden Eagle Condominium Association spend the money twice.

**On a motion by Ms. McKusick and seconded by Dr. Davis, the Board of Health voted in the matter of 310 South Orleans Road (Golden Eagle Condominiums, represented by John Clark, Trustee) to again grant a two-year extension of the order to repair the septic system.**

**Findings are:**

- The condominium association has a sizeable escrow account.
- The condominium association has cesspools on the property that are monitored.

**Conditions are:**

- If there is a failure the condominium association will move to remediate it after considering I/A technology, but that is not a mandatory condition.

**The vote was 3-0-0.**

#### **Agenda Item 4 – Approval Request – Orleans Farmers' Market**

Ms. Heather Bailey was present to discuss her request to conduct a food preparation demonstration at the Orleans Farmers' Market. She explained that she is the owner of the Optimal Kitchen, a nutritional consulting company; as well she is a nutrition coordinator for Cape Cod Child Development. She would like to demonstrate at the Farmers' Market how to purchase, prepare, and use fresh vegetables.

Mr. Canning explained that if Ms. Bailey offers the prepared vegetables for tasting she would need Temporary Food Service Permits with variances for base of operation, etc. However, she could take the food home after preparing it.

Ms. Bailey read from the Massachusetts Department of Public Health regulation that allows conducting demonstrations and offering samples for tasting at a Farmers' Market. However, she acknowledged that she would not be preparing the food in a licensed kitchen. She also noted that she is certified Food Safe.

Ms. McKusick noted that she would not want to set a precedent by allowing preparing food for tasting in an open field. Dr. Schneider inquired what the risks might be. Ms. McKusick explained the lack of hand washing facilities and exposure to insects.

Ms. Bailey asked about placing a sign "Eat at Your Risk", but Board members disapproved that option.

Mr. Canning reiterated the intent of the Board members. He noted that the Board of Health issues to the Farmers' Market a Retail Permit as well as a Food Permit and the Board could authorize sample servings under those permits. He cautioned that Ms. Bailey has a residential kitchen; therefore the food prepared must be limited to items permitted in a residential kitchen and samples served under the Farmers' Market Food Permit.

**On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of Heather Bailey who is a participant in the Orleans Farmers' Market, to approve her request to offer a cooking demonstration while the Farmers' Market is open; and simply condition it that the products that are demonstrated are not offered as samples to the public. The vote was 3-0-0.**

### **Agenda Item 5 – Approval Request – 165 Route 6A**

Ms. Judy Bersin of Ryder & Wilcox represented Lisa Arnold (also present), who would like to purchase a condominium unit to use as a Naturopath's office. Ms. Bersin explained that the office space has been approved for 47 gallons per day of wastewater flow on a 1978 Code septic system consisting of a septic tank and leaching pit with stone. Although the Board of Health instituted a Sewage Design Flow Policy for a Doctor/Chiropractor office, she explained that the practice of Naturopathic medicine does not require the volume of water usage normally expected in a chiropractor or medical doctor's office.

Mr. Canning explained the requirements of Title 5 with regard to a professional office requiring 75 gallons per 1000 square feet of office space. A doctor's office has a sewage flow of 250 gallons per doctor. The unit Ms. Arnold would like to purchase has 620 square feet which calculates to 47 gallons per day. To apply the policy noted above would result in an increase in flow and according to the Nutrient Management Regulations would not be allowed in a condo unit. Any increase in flow would require a new septic system. In 2002 the Board of Health approved an office for use for Naturopathic medicine at 14 gallons per day. The Board of Health, in 2006, established a policy determining that a chiropractor's office use is similar to that of a medical doctor's office necessitating frequent hand washing.

Board members discussed the water usage of different health professional providers.

Ms. Arnold explained that she spends about 45 to 90 minutes with each client, limiting patient flow in the office. Her practice would be more in line with that of a psychologist. There is very little hands-on touching of patients and there is no water therapy; the only water usage is for hand washing and toilet usage. Typically she sees seven or eight patients per day.

Board members, asked about water metering and Ms. Bersin confirmed that each unit has individual water meters. Ms. Arnold also discussed her degree and how she uses the letters N.D. in her professional stationery. She also discussed how she schedules her patients.

**On a motion by Dr. Schneider and seconded by Ms. McKusick, the Board of Health voted in the matter of 165 Route 6A, Unit C, which is being converted for use as a Naturopath's office recognizing that the water usage will be considerably less than that permitted for most physicians' offices under state regulation. The Board of Health recognizes that the practice of Naturopathic medicine does not involve the type of water usage that other physicians' offices might require. Therefore, the Board of Health approves the use of 165 Route 6A, Unit C for the practice of Naturopathic medicine. The Board requests that meter readings be maintained so this can be reviewed after a year and the Health Department might confirm that the water usage does not go over 47 gallons per day as anticipated. Town records would be acceptable for review. The vote was 3-0-0.**

There was further discussion of how the water usage would be calculated.

### **Agenda Item 7 – Approve Minutes**

The minutes of the Board of Health meeting held on May 6, 2010 had previously been distributed to Board members for review.

**The minutes could not be approved because Dr. Schneider had not been present at the May 6, 2010 meeting.**

Mr. John Kelly, Town Administrator joined the meeting at this point.

## **Agenda Item 6 – Orleans Citizens Forum**

Mr. Edward Maas asked that the Orleans Citizens Forum be allowed to conduct a panel discussion regarding tick detection, recognition and prevention of tick-borne diseases. The Orleans Citizens Forum would like to have the Board of Health involved as co-sponsors of this event. Mr. Maas listed the experts that would compose the panel and speak at the event. He also requested that the event be videotaped so it could be broadcast on the public channel 18, or available on the Orleans website. Mr. Kelly had suggested holding the program at Town Hall where the audio/video services are located.

Board members discussed whether this could be done without Board of Health involvement. Mr. Maas responded that the Orleans Citizens Forum wants to have a good quality presentation because the information to be discussed is so important to most citizens.

John Kelly noted that Town Hall is usually used for governmentally-related issues. However, the acoustics are better, there is capacity for 70, and the recording would be better. The Board of Selectmen encouraged the Board of Health to support or be listed as in conjunction with the Orleans Citizens Forum.

Mr. Canning confirmed that any handouts come from MDPH or the county extension service.

Dr. Davis expressed concern that Board members are not officially qualified to be conducting a forum on tick control; however, she emphasized that all Board members are supportive of the Forum. Mr. Kelly noted that they don't normally have outside groups using Town Hall. Dr. Schneider affirmed that tick-borne disease is an issue of great concern and this presentation could be very useful. Mr. Kelly reiterated that he would like to see the discussion held in Town Hall and have the support of the Board of Health. Dr. Schneider discussed his concern that recently there has been an enormous political issue as to whether Lyme disease is a chronic disease. The public must be informed that the Board of Health members are not experts on this subject. Mr. Kelly explained that it is not the purpose of this presentation to debate treatment options. The purpose is to educate the public to recognize and identify ticks, not to debate treatment options.

Ms. McKusick noted that previously the Board of Health was burned with bad press over vaccinations. She emphasized that neither the Health Department nor Board of Health should be represented as giving medical advice on this subject. She asked that a disclaimer be provided in any handout as well as prior to the presentation. Dr. Schneider noted that the handout has minor discrepancies. Dr. Davis reiterated Ms. McKusick's concern about the liability of Board members regarding the public's conception of endorsement by the Board of Health.

Mr. Maas noted that as a former hospital administrator he was pleased when the Orleans Citizens Forum decided to conduct this program. He is also very concerned that this program is just for information and that no medical advice will be provided, and all panelists have been informed of this issue. It was decided to change the flyer to list the Panelists, not Panel of Experts. Mr. Maas explained that they will use 3 x 5 cards for the public to submit questions to the panelists. This will allow them to eliminate duplicates and set aside inappropriate questions.

Mr. Canning explained that he could talk about what the Health Department does as far as reporting communicable diseases, distributing educational material, and also the Department's concern about other tick-borne diseases. He was asked to work with Mr. Kelly to fine tune the details of the Board's support.

Mr. Maas explained that there will be a brief presentation by the moderator and the doctor, and then most of the time would be for questions from the audience. He confirmed the changes to the flyer requested by Board members.

It was the consensus of the Board members to support this effort.

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

Mr. Canning reported on the following:

### **Adult Immunization Clinic**

The Orleans Health Department along with eight other Cape towns is hosting a regional Adult Immunization clinic today, Thursday, May 20, 2010 from 4:00 p.m. to 7:00 p.m. at the Orleans Senior Center on Rock Harbor Road.

They expect approximately 225 participants; 160 of those will be receiving the Zoster vaccine. He noted that the Zoster vaccine was reserved so fast that several people were unable to register for the vaccine and were very displeased.

This clinic is sponsored by the Cape and Islands Health Departments, the Barnstable County Public Health and Environment Department and the Cape Cod Medical Reserve Corps. The vaccine is being provided by the Massachusetts Department of Health and CDC. The Medical Reserve Corps and the Barnstable County nurses will be administering the vaccines.

### **Temporary Food Permits**

At the last Board of Health meeting not all of the Temporary Food Permits were signed for the Universal Lodge for their food events. Because Ms. Christie is now on the Board of Selectmen, Mr. Canning requested that the Board members present at this meeting vote again on these Temporary Food Permits.

**On a motion by Dr. Davis and seconded by Dr. Schneider, the Board of Health voted in the matter of a Variance and Temporary Food Permit for the Universal Lodge and to approve the application by Mr. Frank Ferzoco to cook and serve potentially hazardous foods on the following dates in 2010: June 26 and 27, July 10 and 11, July 17 and 18, August 7 and 8, August 14 and 15, September 4, 5, and 6.**

**Conditions are:**

- All food must be stored and served under a tent.
- Due to the number of permits being issued, the Board of Health must have clear information that the non-profit organization is the beneficiary of the events. A letter must be received from the Universal Lodge stating that the temporary food events are being performed as a benefit to the non-profit organization (the Universal Lodge).
- The Temporary Food Service Permit must be posted on site for the duration of food handling and service activities.
- No bare hand contact is allowed for ready-to-eat foods.
- Temporary food establishment operators shall comply with the mandatory food protection management certification required in accordance with MDPH 105 CMR 590.003. This means that a Certified Food Protection Manager must be present for the duration of food handling activities at the event.

**The vote was 3-0-0.**

The Community of Jesus requested a variance for a mobile food unit. However, they need to finalize the lettering, and they must supply a menu to the Health Department before they do any event in Orleans.

**On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted to grant a variance for a mobile food unit to the Community of Jesus conditioned on the following prior to use in Orleans:**

- They must finalize the lettering on the vehicle for identification purposes.
- They must supply a menu to the Health Department before they do any event in Orleans.

**The vote was 3-0-0.**

### **Agenda Item 9 – Review Correspondence / Old and New Business**

9 – 1 A letter dated April 13, 2010 from the Health Department to Timothy Murphy owner of the property at 20 Hopkins Lane had previously been distributed to Board members for review and discussion. Mr. Canning explained that there has been no response from Mr. Murphy and he recommends a Show Cause Hearing to allow him to explain.

Board members discussed the availability of water to the cottage in question. Mr. Canning explained that the owner had agreed to shut off the water to that cottage, but disregarded the order to replace the cesspool that serves the cottage.

**On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of 20 Hopkins Lane, owner Timothy Murphy, to conduct a Show Cause Hearing. The vote was 3-0-0.**

9 – 2 A notice from the Cape Cod Commission regarding a request by the Orleans Stop & Shop for a gas station had previously been distributed to Board members for review and discussion. Ms. McKusick noted that this request from Stop & Shop has been withdrawn.

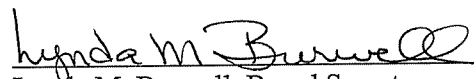
9 – 3 A letter from Coastal Engineering regarding Mahoney's Atlantic Grill on Main Street had previously been distributed to Board members for review and discussion. Mr. Canning explained that these letters described the actions taken when the FAST system is not compliant.

9 – 4 A letter from the Bennett Environmental Associates regarding 12 Riverview Way and its I/A technology septic system had previously been distributed to Board members for review and discussion. Mr. Canning confirmed that this is a new system and the numbers are slightly skewed for seasonal activity.

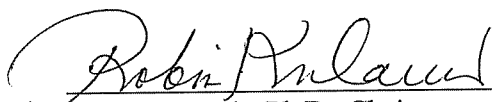
### **Agenda Item 10 – Adjournment**

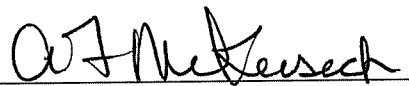
**On a motion by Dr. Schneider and seconded by Ms. McKusick, the Board of Health voted to adjourn this meeting of the Board of Health at 2:34 p.m. The vote was 3-0-0.**

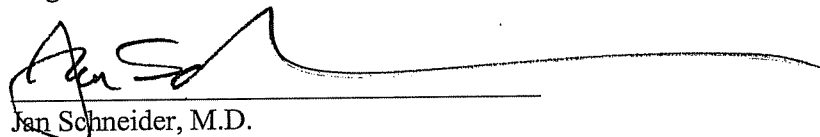
Respectfully submitted,

  
Lynda M. Burwell, Board Secretary

### **ORLEANS BOARD OF HEALTH**

  
Robin K. Davis, Ph.D., Chairman

  
Augusta F. McKusick, Vice Chairman

  
Jan Schneider, M.D.

Excused  
Attorney Job Taylor, III

June 3, 2010  
Date Approved/Accepted