

TOWN OF ORLEANS – BOARD OF HEALTH

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MINUTES OF MEETING

June 17, 2010

The Board of Health convened its meeting at 2:03 p.m. on Thursday, June 17, 2010 in the Skaket Meeting Room of the Orleans Town Hall.

Present: Chairman, Job Taylor, III, Vice Chair Augusta McKusick, Jan Schneider, M.D., and Robin Davis, Ph.D.; and Robert Canning, Health Agent. Also present: Susan Christie, Liaison from the Board of Selectmen and Dale Fuller, Liaison from the Finance Committee.

Agenda Item 1 – Public/Press

Elizabeth Suraci, of Samoset Road, offered to fill the unexpired term of Susan Christi. Ms. Suraci has been a public health nurse in New Jersey as well as for Morris Township in New Jersey. She served as representative from that board to the Consortium of Boards of Health. Ms. Suraci has a minor in public health and a Masters from Columbia. She is retired and has not been active in a public health endeavor until she applied for a variance for a wetlands project on her property in Orleans.

Attorney Taylor summarized what is involved in being a member of the Orleans Board of Health. Ms. McKusick inquired about Ms. Suraci's activities as representative to consortium and she responded that she was involved in discussions about septic systems, wells, sanitary conditions at restaurants and/or other public institutions, and directed the public health nursing activities. Dr. Schneider noted that Ms. Suraci has a good knowledge of what is done by the Board of Health. Mr. Canning explained the process to be conducted for someone to be appointed to the Board of Health. The vacancy will be advertised in the newspapers and at the July 14th meeting with the Board of Selectmen, Board of Health members will jointly address the issue and vote to appoint one of the candidates.

On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted to have the Health Agent send a memo to the Board of Selectmen notifying them that this Board is gratified to have an applicant with enough interest to come and talk with us and she had excellent experience. We ask them to take her application under serious consideration. She certainly would make a valuable contribution to our Board. The vote was 4-0-0.

Ms. Suraci stayed in the audience to observe the remainder of the meeting.

Agenda Item 2 – Variance Request – 15 Orissa Drive

Mr. Tim Brady of East Cape Engineering, representing David Olson and Lauren Hiestand (also present, and owners of the property), was present to discuss the variances requested. The proponents started construction of the septic system this spring and at this point the pump chamber is installed and the force main from the pump chamber around the building has been installed. Initially the line would cross into Lot 2 for the leaching system. However, upon excavation they found unsuitable soils which were to be removed down to clean sand, and they encountered perched groundwater approximately four feet below the surface. There had been no evidence of perched water or other mottling during soil testing. This year they found perched groundwater in the hole and on other areas of Lot 2. Using hand augers on other parts of Lot 2 they found more groundwater. On Lot 3 they again used hand augers to explore near the water and in back of the house and both locations were dry. After digging more test holes and conducting soil tests it was determined that this area is the most appropriate place to put the leaching system. There is unsuitable soil that must be removed but that is not unusual in this area. Mr. Brady noted that he is concerned that the leaching system is now 90 feet to the Coastal Bank. He proposed mitigation using a vinyl liner on the side by the Coastal Bank in addition to the side near the house foundation. The existing building is located on a private way where the owners own to the center of the cul de sac. The leaching system

will be constructed utilizing H-20 components in the event vehicle access is needed in that area. Mr. Brady also discussed the location of the current house in part of the cul de sac and how the property lines have been established.

Ms. McKusick requested clarification of test hole notations on the plan and Mr. Brady agreed that they will be renumbered on a revised plan submitted to the Health Department.

Mr. Canning inquired about ownership of the portion of the cul de sac, the impact of effluent on the foundation and the deep excavation near the dwelling.

Mr. Brady explained his calculations in order to avoid effluent flow toward the foundation. He also noted that this new design keeps all leaching components on Lot 3. He noted that the vinyl liner will be sufficient to mitigate any horizontal flow toward waters in that area. The over dig excavation will act as a wick to the good soils in the area and they are not excavating all the way to the foundation. He explained that unless there is wording to the contrary, owner on a private way own the property to the center of the cul de sac. Attorney Taylor requested that a letter from an attorney or Mr. Brady as a registered land surveyor confirming ownership of the half of the cul de sac be placed in the Health Department file.

Board members discussed the existence of an association that might own the roadways and Mr. Brady noted that he would confirm that there is not. It was also noted that the original failed system noted in 2001. Mr. Brady explained that the owners started in 2003 to rectify the situation. In addition, the building is rarely used. Mr. Canning affirmed that the Board of Health has periodically issued extensions to the order to repair although it has been a slow process. It was noted that the proponents have ownership of Lot 2 and Lot 3; therefore they could not grant an easement to themselves and that had been previously discussed. However, Mr. Brady affirmed that there is an easement prepared for the situation of sale of one or both lots to different owners.

Mr. Robert Heath of 14 Orissa Drive, an abutter, explained that there is an association of owners that was never incorporated. Mrs. Beatrice Heath, also an abutter, noted that the cul de sac being referred to is intended as a foot path. It is her opinion that the land on which the house is built is not owned by the proponents but was used because there was not enough land to avoid the hill. Mr. Brady explained that Mrs. Heath is referring to a right of way to the water which follows the property line to the water and is not affected by the septic system location. He noted that the septic system will be located directly across from the Heath's driveway. The area is entirely vegetated but on official plans it is noted as a cul de sac. The leach field is going in the legal part of the cul de sac, not the area the Heath's use. Mrs. Heath requested a review of this proposal by her lawyer.

Mr. Canning noted that in the previous proposal the septic line crossed an eight inch water main, and that conflict has been eliminated with this new proposal.

On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of Lot 3, 15 Orissa Drive.

Findings are:

- 1. This is a 0.90 acre lot, much of which the lot is wetland with a very small portion outside of the 100 foot buffer zone.**
- 2. The lot is owned by the same owners of the adjacent lot referred to here as Lot 2.**
- 3. The lot is situated on a cul de sac that ends Orissa Drive, and a letter will be provided indicating that the owner of Lot 3 has control and permission to build up to the middle of that cul de sac.**
- 4. The existing septic system is well within the 25 foot buffer and the top of the Coastal Bank and this will be an improvement over the existing conditions that have been under review for nine years.**

Ms. McKusick moved to grant the following variances:

Variances to 310 CMR 15.405: Contents of Local Upgrade Approval (Title 5)

1. A 28 foot \pm variance to the 10 foot required setback for proposed soil absorption system to road line. (The furthest point of the soil absorption system is proposed 18 feet \pm beyond the road property line.)
2. A 10 foot \pm variance to the 10 foot required setback for proposed soil absorption system to western property line.
3. A 4 foot \pm variance to the 10 foot required setback for existing septic tank to foundation wall.
4. An 8 foot \pm variance to the 20 foot setback for proposed soil absorption system to foundation wall.
5. A 1 foot \pm variance to the 25 foot required setback for existing septic tank to top of Coastal Bank.

Variances to the Town of Orleans Board of Health Regulation Section 185-17.3 General Requirements (Setbacks)

1. Variance to allow a portion of proposed soil absorption system to be constructed beyond property line.
2. A 26 foot \pm variance to the 50 foot required setback for existing septic tank to top of Coastal Bank.
3. A 25 foot \pm variance to the 50 foot required setback for proposed pump chamber to top of Coastal Bank.
4. A 10 foot \pm variance to the 100 foot required setback for proposed soil absorption system to top of Coastal Bank.

Conditions are:

1. A protective sleeve is placed over the pipe running from the septic tank to the leaching field where it crosses the water line.
2. The letter confirming the presented material about the ownership and construction permits within the private drive be put on file.
3. This shall never exceed a three bedroom house.
4. This is an H-20 system to allow vehicles to drive over the top.
5. A vinyl barrier must be placed between the edge of the excavation and the foundation.

The vote was 4-0-0.

Agenda Item 3 – Bedroom Determination – 71 Great Oak Road

Mr. Donald Cameron was present to represent Mary Jane Curran, owner of the property at 71 Great Oak Road. This is a four-bedroom house with a four bedroom septic system. Mr. Cameron explained the proposed addition of a studio and proposed changes to the first floor bedroom making it a study by eliminating the closets and door. However, the opening into the study would be five feet, six inches, not the required six foot opening. In addition, this room would not have the privacy required for a bedroom. He mentioned that they could renovate the bathroom but they would prefer not to, therefore they requested a variance to not consider the study as a bedroom.

Board members discussed whether the decking is screened. Mr. Cameron explained that an eight foot by ten foot porch is screened.

Mr. Canning explained that the Health Department could approve of a room not being considered a bedroom if there is a six foot wide opening into the room. This room has a five foot, six inch wide hall coming off the main hall. He noted that the 1995 Code septic system was installed in 1996 and was designed for four bedrooms. There are currently four bedrooms in the house.

It was suggested that the owner cut a six foot opening in the living room wall, but Mr. Cameron explained that the wall is a bearing wall and it would be more expensive.

On a motion by Attorney Taylor and seconded by Ms. McKusick, the Board of Health voted in the matter of 71 Great Oak Road to grant the request as presented today with one caveat that the Health Agent have, once the work is completed, the right to inspect the premises.

During discussion it was suggested that a deed restriction be placed on the property. Since the property is 65,000 square feet, Mr. Canning explained that they could have up to six bedrooms according to the Nutrient Management Regulations. He also noted that the septic system could be expanded to accommodate a five bedroom home if necessary, and if it becomes a bedroom, the system must be expanded. Mr. Canning explained that if it is found that the study is being used as a bedroom, the Health Department would write a letter of non-compliance and the owner would be required to bring the septic system into compliance.

The vote was 4-0-0.

Agenda Item 4 – Approve Minutes

The minutes of the Board of Health meeting held on June 3, 2010 had previously been distributed to Board members for review.

On a motion by Dr. Schneider and seconded by Dr. Davis, the Board of Health voted to accept the minutes of the meeting held on June 3, 2010. The vote was 3-0-1. Ms. McKusick abstained because she was excused from part of that meeting.

Dr. Schneider discussed that the wording of a motion should be edited by the Board Secretary. Attorney Taylor opined that the verbatim language used is appropriate.

Agenda Item 5 – Health Agent's Report

Mr. Canning reported on the following:

Temporary Food Permits

Friends of Meetinghouse Pond

Lynne Eldridge had requested a variance required for the preparation of fruit. The group states they are non-profit group but they do not have a tax-exempt number. They have provided a letter requesting an exemption from the required fee.

The group will be holding a Regatta on July 2, 2010 from 11:00 a.m. to 1:00 p.m. at a private home at 12 Tides End Lane. Watermelon and store-bought ice cream sandwiches purchased from a licensed market will be served. The watermelon will be washed and cut immediately before being served and will be passed on a tray with tongs for self service. The ice cream will be kept in freezer until served. Hand washing and restroom facilities will be available at the house. The trash will be collected onsite and disposed by the owner.

On a motion by Dr. Davis and seconded by Dr. Schneider, the Board of Health voted in the matter of the Friends of Meetinghouse Pond for an event they will be holding (a Regatta) on July 2, 2010 from 11:00 a.m. to 1:00 p.m. at a private home at 12 Tides End Lane. The Board of Health approved 1) a Temporary Food Permit, 2) a variance to prepare and cut watermelon, and 3) waiver of the fee to hold the event. The vote was 4-0-0.

Orleans Methodist Church – Firecracker Café

Kathi Lewis, representing the Orleans Methodist Church, had requested a variance needed for the menu and cooking outdoors for the Firecracker Café on July 3, 2010 from 8:00 a.m. to 1:00 p.m. They will be serving hot dogs, hamburgers, lobster rolls, pre-wrapped cookies and brownies, chips, coffee, and donuts.

Lobster rolls will be prepared and wrapped inside the licensed kitchen. They will be kept under refrigeration in the kitchen and brought, a few at a time, to iced coolers located outside in the serving area. A thermometer will be available in both refrigeration units. Hot dogs and hamburgers are to be cooked on grills outdoors. Burgers are pre-cooked and will be held on the grill and hot dogs will be held hot on the grill or in an electric hot holding unit. Items will be held at proper temperatures in the church kitchen until needed for service. Condiments will be in

squeeze bottles. A tent will be set up above the serving area. Food will be obtained from licensed sources. Tongs and gloves will be used to prevent bare-hand contact. Everything will be single use articles. Restrooms and hand washing facilities are available inside the church. There will be separate food handlers and money handlers to prevent cross contamination.

On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted in the matter of the Orleans Methodist Church – Firecracker Cafe for an event they will be holding on July 3, 2010 from 8:00 a.m. to 1:00 p.m. at the church. The Board of Health approved 1) a Temporary Food Permit, and 2) a variance to cook and serve food outdoors. The vote was 4-0-0.

Retail Food and Tobacco Sales

Fullers Package Store

The package store has been sold to Fred and Faith Dunn. On June 4, 2010 the Health Department issued a Temporary Retail Food and Tobacco Sales License to the new owners. Mr. Canning noted that the establishment does not have all the sinks required by the Food Code; however, they do have restrooms with sinks for hand washing and a slop sink for floor cleaning. All food sold is prepackaged. The owners have requested a variance from the Federal Food Code for the requirement for a three-bay sink.

On a motion by Dr. Schneider and seconded by Ms. McKusick, the Board of Health voted to approve a Retail Food License, Tobacco Sales License, and grants a variance to the Federal Food Code for the required number of sinks to the new owners of Fuller's Package Store, Fred and Faith Dunn. The vote was 4-0-0.

Mobile Food Permits:

Ardath's Mobile Food

Sabra Reynolds has requested that the Board of Health grant a variance to allow them to cook hamburgers, hot dogs and pre-cooked sausages outdoors on a gas grill. This request is being made for all Orleans Firebird baseball games as well as at Rock Harbor for the 4th of July fireworks.

On a motion by Dr. Schneider and seconded by Dr. Davis, the Board of Health voted in the matter of Ardath's Mobile Food to allow them to cook hamburgers, hot dogs, and pre-cooked sausages outdoors on a gas grill for all of the Orleans Firebirds' baseball games as well as at Rock Harbor for the 4th of July fireworks. The vote was 4-0-0.

Refuse Collection and Transportation

Cavossa Disposal Corporation

Cavossa Disposal Corporation has applied for a license as a Refuse Collection and Transportation Hauler. As Mr. Canning indicated in at the last meeting, Cavossa had been operating in town without a permit and was issued an order by the Health Department to come into compliance. Mr. Canning met with the manager of the corporation and reviewed the Orleans Board of Health Solid Waste Regulations as well as the General Laws regarding the licensing of vendors who collect and transport refuse. All of their documents are now in order.

On a motion by Ms. McKusick and seconded by Dr. Davis, the Board of Health voted in the matter of Cavossa Disposal Corporation to approve a license as a Refuse Collection and Transportation Hauler until December 31, 2010. The vote was 4-0-0.

Nursing Service Contract

Mr. Canning will be preparing for approval the 2010 - 2011 VNA Nursing Service Contract with the Cape Cod VNA. This contract is very similar to the current year contract (but eliminating twelve blood pressure clinics). The contract continues to include:

Skilled Nursing
Maternal/Child Visits
Medical Social Worker
Blood Pressure Clinics

Glucose Clinic
Colorectal Cancer Clinic
Skin Cancer Clinic
Child Immunization

There was discussion about how many people attend the blood pressure clinics to which Mr. Canning responded that there are usually ten to twelve clients at a clinic. The clinics are held monthly at the Council on Aging, Rock Harbor Village, and Tonset Woods.

Agenda Item 6 – Review Correspondence / Old and New Business

6 – 1a – A letter dated May 18, 2010 from Coastal Engineering Company regarding **34 Wesquansett Road** had previously been distributed to Board members for review and discussion. Mr. Canning reported that an order had been written by the Health Department upon a sale of property notifying the owner that a leaching pit had five feet of liquid in a six-foot capacity pit and had staining up to the six foot level which fails the pit according to Title 5. The owner appealed the order to repair and explained that the distribution box was not level and requested that they be allowed to monitor the levels for a year after replacement of the distribution box. The Board of Health granted the appeal. This letter reported on the inspection of May 14, 2010 that showed considerable improvement in the liquid levels in both leach pits.

On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted in the matter of 34 Wesquansett Road to remove the order to repair the leaching pits. The vote was 4-0-0.

6 – 1b – A letter dated June 3, 2009 from the Orleans Health Department regarding **34 Wesquansett Road** had previously been distributed to Board members for review and discussion. See above discussion.

6 – 2a – A letter dated June 9, 2010 from The Estate of William a Grover regarding **134 Namequoit Road** Clean-up Order of August 2008 had previously been distributed to Board members for review and discussion. Mr. Canning explained that in 2008 the Health Department issued an order to clean up the property. At this time, most of the work is completed although there remains some brush to be removed. He noted there are issues with regard to ownership and the bank, therefore, the owner is requesting an extension to December 31, 2010.

6 – 2b – A letter dated April 19, 2008 from the Orleans Health Department regarding **134 Namequoit Road** Clean-up Order of August 2008 had previously been distributed to Board members for review and discussion.

On a motion by Attorney Taylor and seconded by Ms. McKusick, the Board of Health voted in the matter of 134 Namequoit Road to grant an extension to December 31, 2010. The vote was 4-0-0.

6 – 3 A letter dated June 8, 2010 from Coastal Engineering Company, Inc. regarding **21 Preservation Path** had previously been distributed to Board members for review and discussion. This is a follow up letter from system operators of I/A technology septic systems.

6 – 4 A letter dated June 2, 2010 from Wastewater Treatment Services, Inc. Village Court Condominium Association at **11 Center Place** had previously been distributed to Board members for review and discussion. This is a follow up letter from system operators of I/A technology septic systems.

Mr. Canning will compile the results of the responses from owners and operators for discussion at the August meeting.

6 – 5 A meeting notice dated June 11, 2010 from MEPA regarding the **Hirschberg Pier at 47 Whites Path** had previously been distributed to Board members for review and discussion.

6 – 6 A letter dated 6/2/2010 from the Chairman of the Board of Selectmen regarding appointment of Susan Christie as liaison to the Board of Health had previously been distributed to Board members for review and discussion.

6 – 7 A memo dated June 7, 2010 from the Board of Health to the Board of Selectmen regarding the Board of Health vacancy had previously been distributed to Board members for review and discussion. The Board of Health will meet with the Board of Selectmen on July 14, 2010.

6 – 8a – A letter from the Orleans Water Department dated May 10, 2010 enclosing the Annual Water Quality Report had previously been distributed to Board members for review and discussion.

6 – 8b – A copy of the Orleans Water Department Annual Water Quality Report for 2009 had previously been distributed to Board members for review and discussion.

6 – 9 – A letter dated May 19, 2010 from Bennett Environmental Associates, Inc. regarding **17 Herring Brook Way** had previously been distributed to Board members for review and discussion.

New Business

Attorney Taylor announced that the next meeting of the Board of Health will be at 2:00 p.m. on July 8, 2010.

Mr. Canning discussed the changes required by the Open Meeting Law including an expanded agenda announcing the meeting, and extended minutes including a list of documents used for deliberation by the Board of Health.

Mr. Canning reviewed that the upcoming meeting with the Board of Selectmen will discuss three issues: 1) Filling the vacancy on the Board of Health; 2) Follow-up on solid waste issues; and 3) Possibility of having a housing registration program for rental housing. He will explore how other towns handle their programs for rental housing.

Attorney Taylor discussed the burden that would be put on the Health Department with the inception of a rental housing registration. Mr. Canning noted that he is concerned that would take approximately eight hours for each property to register and inspect, follow-up on issues. They definitely would need additional staff to conduct the inspections.

Ms. McKusick suggested that it could be a Board of Health program; but that it could be handled as a common victualer's license with a caveat that says the permit does not imply that this dwelling complies with Chapter II of the Housing Code.

Agenda Item 10 – Adjournment


On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted to adjourn this meeting of the Board of Health at 3:10 p.m. The vote was 4-0-0.

Respectfully submitted,

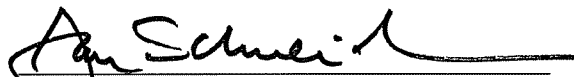


Lynda M. Burwell, Board Secretary

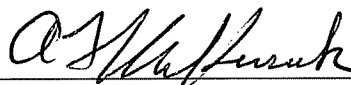
ORLEANS BOARD OF HEALTH



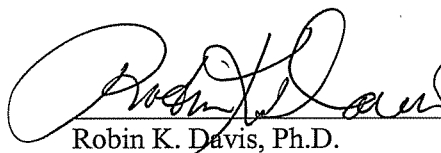
Attorney Job Taylor, III, Chairman



Jan Schneider, M.D.



Augusta F. McKusick, Vice Chairman



Robin K. Davis, Ph.D.

July 8, 2010
Date Approved/Accepted

**DOCUMENTS PROVIDED FOR THE JUNE 17, 2010
MEETING OF THE ORLEANS BOARD OF HEALTH**

Agenda Item 2

- 2 – 1 – Variance Application Form submitted by East Cape Engineering, Inc. – 15 Orissa Drive
- 2 – 2 – East Cape Engineering, Inc. letter dated 5/28/10 – 15 Orissa Drive
- 2 – 3 – East Cape Engineering, Inc. Site Plan showing Sanitary Subsurface Sewage Disposal System for 15 Orissa Drive dated 5/28/10.
- 2 – 4 – Orleans Health Department letter dated 4/28/09 to East Cape Engineering, Inc. – 15 Orissa Drive
- 2 – 5 – Orleans Health Department letter dated 12/13/01 to Laura and Ronald Hiestand – 15 Orissa Drive

Agenda Item 3

- 3 – 1 – Hearing Request submitted by Mary Jane Curran – 71 Great Oak Road
- 3 – 2 – Existing and Proposed Floor Plans – 71 Great Oak Road
- 3 – 3 – Orleans Board of Health Application for Disposal Works Construction Permit No. 95-252 issued 10/18/95 – 71 Great Oak Road

Agenda Item 4

- 4 – 1 – Orleans Board of Health Minutes of Meeting on June 3, 2010

Agenda Item 6

- 6 – 1a – Coastal Engineering Company, Inc. letter dated 5/18/10 – 34 Wesquansett Road
- 6 – 1b – Orleans Health Department letter dated 6/2/2009 – 34 Wesquansett Road
- 6 – 2a – Letter from The Estate of William A. Grover dated 6/9/10 – 134 Namequoit Road – Clean Up Order of 8/19/08
- 6 – 2b – Orleans Health Department letter dated 8/19/08 – 134 Namequoit Road – Clean Up Order of 8/19/08
- 6 – 3 – Coastal Engineering Company, Inc. letter dated 6/8/10 – 21 Preservation Path
- 6 – 4 – Wastewater Treatment Services, Inc. letter dated 6/5/10 – Village Court Condominium Association, 11 Center Place
- 6 – 5 – Mass. Executive Office of Energy and Environmental Affairs Meeting Notice dated 6/11/10 - Hirschberg Pier, 47 Whites Lane
- 6 – 6 – Orleans Board of Selectmen notification of Ms. Susan Christie as Selectman liaison to the Board of Health
- 6 – 7 – Board of Health letter to Town Administrator dated 6/4/10 – Board of Health Vacancy
- 6 – 8a – Orleans Water Department letter dated 5/10/10 – Consumer Confidence Report
- 6 – 8b – Orleans Water Department Water Quality Report
- 6 – 9 – Bennett Environmental Associates letter dated 5/19/10 – 17 Herring Brook Way