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TOWN OF ORLEANS – BOARD OF HEALTH

MINUTES OF MEETING

August 12, 2010

The Board of Health convened its meeting at 2:04 p.m. on Thursday, August, 12, 2010 in the Skaket Meeting Room of the Orleans Town Hall.

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

Agenda Item 1 – Public or Press

There was no one present for Public or Press.

Agenda Item 2 – Approval Request – 5 Holly Lane

Mr. David Lyttle of Ryder & Wilcox, representing Fred and Nancy Ambrose owners of the property at 5 Holly Lane, explained that when the owners first built the house they applied for a building permit and a septic permit for a four-bedroom house. A four-bedroom septic system was installed. However, the fourth bedroom (over the garage) was not completed when the house was initially built. They now plan to finish that fourth bedroom but since it has been just over a year since the Certificate of Compliance for the septic system was issued, Title 5 requires that a new inspection of the septic system be conducted before a building permit can be issued. On behalf of the proponents, Mr. Lyttle requested a waiver of the requirement to have the septic system inspected because the owner has just recently moved into the house and the septic system has had very little previous use.

Mr. Canning explained that Title 5 requires an inspection when there is a change in use or in design flow of a facility when a building permit or occupancy permit is required. Title 5 does not cite, in that section of the code, anything about a Certificate of Compliance being good for two years or at what point an inspection is required. It has been the policy of the Health Department that a Certificate of Compliance could be valid for one year for a building permit for an increase in flow. Title 5, on a transfer of property where a septic system is new, does note that a Certificate of Compliance could be valid for up to three years if the system had been pumped once in that three-year period.

Board members discussed how long the property had been occupied, to which Mr. Lyttle responded three or four weeks.

On a motion by Dr. Schneider and seconded by Ms. McKusick, the Board of Health voted in the matter of 5 Holly Lane. The situation is that a new house exists which was designed for a septic system which conforms to a four-bedroom capacity. Initially the house was only built with three bedrooms. Currently a fourth bedroom is being built. The house is now occupied and has only been occupied for a matter of three or four weeks. Under these circumstances, the owner has requested a waiver from the need for an inspection of this brand new system which has only just started its use. I move to approve the waiver. The vote was 5-0-0.

Agenda Item 4 – Hearing Request – 17 Industry Way

Ms. Ann Baronousky/Chin was present at the hearing regarding the order to remove her neighbor's trash dumped on her property at 17 Industry Way. She explained that for a long time they have been trying to resolve the issue by enlisting the help of the Police Department, Building Department and the Health Department, as well as the owner of the adjacent property from whom the vandals rent. She noted that the tenants

have been very aggressive at times, and unfortunately they have vandalized their property as well as the Baronousky/Chin's property. She expressed frustration that someone can repeatedly dump trash on another's property and the owner of the property is expected to clean up that trash or be fined. Ms. Baronousky/Chin has installed fences but they have been vandalized as well. She explained that her property is in an industrial area with some residential properties, but with a lot of vandalism and asked for advice to rectify the situation.

Atty. Taylor noted there is very little that the Board of Health can do to help the issue.

Mr. Canning explained that the Health Department became involved because of a housing complaint for the property at 18 Industry Way and part of the order was removing trash from that property. A truck cap with mattresses inside was included in that order. However, the owner of 18 Industry Way refused to remove them because trash was on 17 Industry Way. Mr. Canning noted that this is a civil issue between the two property owners and the Health Department doesn't have the authority to police the issue.

Ms. Baronousky/Chin asked if there is an ordinance with reference to illegal dumping. Attorney Taylor acknowledged that there is, but the problem is how to prove it. He reiterated that the trash must be removed but the Board of Health could waive the dump fees.

Ms. Baronousky/Chin noted she had reviewed the assessors records to determine the number of bedrooms in the adjacent property. Mr. Canning noted that there are three bedrooms per unit for a total of six bedrooms in the dwelling.

Ms. McKusick suggested that Mr. Canning write a letter to waive the dump fees charged for disposal of the truck cap and mattresses within the next 30 days. Dr. Schneider suggested that a letter from the Health Department to the tenant dumping the trash be written. Mr. Canning explained that the offending tenants have already moved.

On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of the letter citing refuse disposal at 17 Industry Way, that we waive the Transfer Station fees for 30 days for removal of the mattresses and truck cap. The vote was 5-0-0.

Agenda Item 3 – Hearing Request – 123 South Orleans Road

Ms. Patricia White represented the condominium owners for Units 1, 5, and 6 at the Pleasant Harbor Condominiums at 123 South Orleans Road. There were no other owners present. She explained that they have two cesspools for those three units and they have failed by definition. They have hired East Cape Engineering to design a new septic system. At this time two of the three owners can afford the repair but one owner cannot afford the cost of constructing a new septic system. She asked for another extension of the order to repair.

Mr. Canning reviewed the history of the order to repair that was issued in 2006. Condominiums are required to be inspected every three years. As a result of a routine inspection in 2006 the cesspools were identified and were placed under order to be replaced. The owner has requested previous extensions and the current extension expires on August 15, 2010. There has been no evidence of overflow or failure.

Board members discussed granting another one-year extension, but no longer. It was suggested the owners contact the county for financial assistance. Ms. White explained that they were also waiting for the town's wastewater plans to be established. Ms. McKusick explained that the town would be very sensitive to those who have recently installed a new septic system. Dr. Davis suggested that the condominium association establish an escrow account to be used only for the septic system repair.

On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted in the matter of the Pleasant Harbor Condominiums at 123 South Orleans Road to grant an extension for one more year until September 1, 2011 to come into full compliance, and with the understanding that it will be very difficult to convince us to go past that. The vote was 5-0-0.

Agenda Item 5 – Approval Request – 41 Route 6A

Mr. Tyler Keyes and Mrs. Anna Keyes were present to discuss their request for a waiver of the requirement for a septic system inspection which is required for a Residential Kitchen Permit as noted in Title 5, Sections 15.203 and 15.301. They have applied for a Residential Kitchen Permit for their house for the preparation of jams and jellies for sale at the Farmer's Market. Ms. Keyes stated that they have calculated the water needed for the canning process and have determined that it will not create a significant increase in septic flow. They live alone in a four-bedroom home and are not using anywhere near the capacity of septic flow.

Mr. and Mrs. Keyes are also requesting a waiver for the requirement to have a three-bay sink as required by Title 5 for a Residential Kitchen Permit. They have devised a system that will replicate the procedure by placing a large plastic dishpan on each side of the existing sink. Using this system they will be able to wash, sanitize, rinse and air-dry the items.

Mr. Canning noted that the material regarding the waiver for the sinks was not available to the board members for this meeting. He then read from Title 5, the section regarding change of use or increase in flow to a septic system, that the system must be inspected. However, in Title 5 under the sewage flow design criteria, that if a home office or home retail business, whose only employees reside in the home where no other wastewater is generated other than toilet and hand washing waste, is not considered a change in the type of establishment, and does not require the additional flow for the purpose of designing a system. There is some correlation between the two sections that allows a home occupation under residential use. It appears that the Keyes should not be assessed additional flow requiring the inspection of the septic system. Mr. Canning noted that although the additional flow is not that great, it is a change in use requiring an inspection.

Board members discussed the annual renewal of the Residential Kitchen Permit. They asked for clarification of the terms Residential Kitchen Permit and Home Retail Operation and discussed further amount of water needed for canning process and source of fruit to be used. Mrs. Keyes explained that eventually their goal is to grow some of the fruit they would be using for the jams and jellies. She was then asked when the septic tank was last pumped and responded about one and one-half years ago.

On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted in the matter of 41 Route 6A and the request from Mr. and Mrs. Keyes to make small batches of jams in their home, and their request to have a Residential Kitchen Permit without the need to go through an inspection of the septic system. I move that in view of the numbers we have been given of the relatively small volume of water that the operation will generate, this will in no way threaten a fairly recently inspected septic system. I move that we approve their request. In view of 310 CMR 15.203.1 we grant a waiver from it. The vote was 5-0-0.

On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of 41 Route 6A to grant Mr. and Mrs. Keyes a waiver from the requirement to have a three-bay sink. The vote was 5-0-0.

Dr. Davis recused herself from the following discussion.

Agenda Item 6 – Discussion – 29 Giddiah Hill Road – Daniels Recycling Company, Inc.

Mr. Steve Daniels of Daniels Recycling Company, Inc. was present to discuss the deficiencies recorded as a result of a site inspection conducted by the Orleans Health Department on July 27, 2010.

Mr. Canning reviewed the deficiencies from a recent inspection as listed in his letter of July 22, 2010 to Daniels Recycling Company, Inc. (Item 6 – 1 in the Board of Health packet)

Mr. Daniels explained that there was a discrepancy between the Approval to Operate (ATO) and Financial Assurance Mechanism (FAM) which states the capacity for storage of materials inside the building. He listed the allowances as follows: The Health Department was using a maximum allowance of 315 cubic yards, where the FAM allows 860 cubic yards for storage inside the facility.

Mr. Daniels was asked to explain if the FAM differentiates between processed and unprocessed material. He explained that the FAM is specific on the different materials. It allows unprocessed C&D in the building a maximum of 400 cubic yards or equal to 100 tons. Aggregate in the bins or roll-off containers equal to 40 cubic yards or 60 tons. Metal within roll-off containers can be equal to 80 cubic yards or 40 tons. Other bulky materials (carpets, mattresses, fish nets, etc.) equal to 140 cubic yards in the building or 35 tons. Wood fuel (processed or unprocessed clean wood) allowed inside the building equal to 200 cubic yards or 50 tons. Exemptable wood (brush and stumps) allowed inside the building up to 500 yards or 250 tons. Exemptable wood chips or mulch on site stockpiled outside the building up to 1500 cubic yards equal to 375 tons. Maximum combined volume of 2860 cubic yards equal to 910 tons.

Attorney Taylor noted that the Health Agent had observed 1612 cubic yards of material inside the building in May, significantly over the allowance. Mr. Daniels explained there was a discrepancy in amounts and how it is measured. Attorney Taylor explained that the Board of Health is fairly pleased with the DRCI operation, but some neighbors might not be. However, there has been a lack of communication; many of the required reports have only been received today, in particular the FAM report. Mr. Daniels claimed that the FAM has been in place since the beginning and it was his understanding that it had been copied to the Health Department in January. Attorney Taylor read the storage amounts from the inspection reports from the previous four months which indicated excessive amounts of debris stored at DRCI. Mr. Daniels again explained that the FAM allowances have been the same since it was established. However, the State requires an upgrade for inflation. The intent of the FAM is to set aside a bond amount to cover an emergency cleanup of the property. Although there may be a change in classification of materials, the bond amount stays the same.

Mr. Canning explained that the Health Department has been communicating with DRCI on a monthly basis and they have never questioned the reported amounts. In April, May, and June DRCI severely exceeded the limits of allowed storage. He noted that there has been progress with the July and August reports showing lower storage numbers. Mr. Canning allowed that the amounts fluctuate during a month, but he has requested that DRCI inform the Health Department when amounts are closer to the limits. The Health Department is also concerned about the C&D material accumulating inside the building. There is also a need to define the material using the same criteria to be able to determine the length and amount of storage allowed. Mr. Canning reported that the amount of material in the building at this time is probably within 100 cubic yards of the maximum allowed; and all other areas on the site are within compliance. He also reported that most of the fencing has been repaired but there is a small area still to be fixed. All containers now have impervious covers as required. He understands that DRCI will submit more timely reports about customers coming in without covers on their trucks.

Board members discussed how to differentiate the processed and unprocessed. Mr. Daniels explained that MassDEP considers material processed if it has been sorted, separated, ground, chipped, etc. This process depends on the flow of the material and during rush periods, some material is stored in a corner of the building until it can be kick-sorted. He noted that Green Seal has suggested increasing the FAM. DRCI is now using their larger trucks for more efficient disposal of processed material.

Board members also questioned the location of the fence. Mr. Daniels explained that there is a one foot setback. He explained that according to the factory specifications for chain link fencing, the six foot section of fence measures five feet, ten inches. Mr. Canning will review the fencing specification to determine if the post meets the six foot requirement.

Dr. Schneider questioned the role of the consultant to help DRCI meet the requirements of the site assignment. Mr. Canning explained that according to the site assignment, the role of the consultant is to submit reports to the Health Department on a monthly and annual basis. Although the consultant might be identifying and advising DRCI of areas of non-compliance, apparently they have not been hired by DRCI for that service. The Health Department has been conducting inspections as a result of complaints from others. They have identified many factors in the facility not clearly addressed in the Green Seal reports.

Attorney Taylor thanked Mr. Daniels for coming to the meeting to address these many issues. He noted that it is incumbent on DRCI to better communicate with the Board of Health and Health Department. He expressed appreciation for the service DRCI is providing.

Dr. Davis left the meeting at this point.

Dr. Schneider recused himself from the following discussion because Mr. Whitford Boyd, proponent for the next agenda item, has done considerable work at his house.

Agenda Item 7 – Variance Request – 219 Main Street

Mr. Whitford Boyd, owner of the property at 219 Main Street, requested a variance from the Orleans Health Department order to correct certain violations found as a result of a site inspection conducted by the Health Department on May 7, 2010. It was determined that the hand rail on a stairway and the ceiling height in the kitchen were not the correct height according to the housing code.

Mr. Canning confirmed that the dwelling at 219 Main Street is a registered historical property. Mr. Boyd affirmed that there are no children as tenants in the three rental units. It was noted that the height of the railing could be a safety factor if children were residents. Ms. McKusick noted that the Board of Health had previously granted a variance for banister height in older properties.

Mr. Canning reviewed MDPH 105 CMR 410, the State Sanitary Code; and Chapter II, Minimum Standards of Fitness for Human Habitation Code. Conditions deemed to endanger include providing a safe hand rail. However a variance may be granted by the Board of Health for an historic building provided that the public health will not be compromised. This house was built in 1860 and is registered as an historic home. He explained that there is a rail at top of stairway which is 29", and the Code requires 36". The stairway hand rail can have no less than 30" and the run is 25" to 30" in height. On the matter of the ceiling height, Chapter II requires 7' minimum for a room to be habitable. The room in question is used as a dining room where the wall height varies and it has a sloped ceiling. Mr. Canning showed photos of the property to Board members. Any variance granted by the Board of Health must be recorded at the Registry of Deeds to be in effect.

Board members discussed whether there is a banister or railing on the wall side. Mr. Boyd noted that there is no hand rail on the wall side but agreed that one could probably be installed there. Ms. Suraci expressed concern that visiting children might fall over the railing and suggested an accommodation in the form of an additional hand rail.

On a motion by Ms. McKusick and seconded by Ms. Suraci, the Board of Health voted in the matter of 219 Main Street, to grant a variance on two conditions that were found during a house inspection. One is the ceiling height. This is an historic registered house built in 1860, known as the Augustus Percival house and the ceilings are quite uneven and this room is a dining room so that's one variance we will grant. The second variance we will grant is on the height of the banister and handrail because it is an historic house. A condition will be that a hand rail will be installed at the proper height on the opposite side of the stairway on the stairs going down from this area to the bottom landing for safety purposes. The vote was 3-0-0.

Agenda Item 8 – Show Cause Hearing Continuation – 20 Hopkins Lane

Mr. Canning reported that Mr. Murphy was not present. Mr. Murphy called the Health Agent with an inquiry that he would like to add the one bedroom unit to the current septic system serving his three-bedroom unit. After reviewing the files, it was determined that it would not be a viable solution. Mr. Murphy informed Mr. Canning that he would proceed with the required construction to the septic system.

Board members suggested that this case be referred to Town Counsel.

On a motion by Ms. McKusick and seconded by Attorney Taylor, the Board of Health voted in the matter of 20 Hopkins Lane to forward this case to Town Counsel. The vote was 3-0-0.

Agenda Item 9 – Approval Request – 4 Eli Rogers Road

Mr. Ralph Rincones, owner of the property at 4 Eli Rogers Road, requested a waiver from the requirement to upgrade his septic system. His proposal is to repair a deck and add a small entry/pantry as shown on a plan prepared by Peter J. Coneen LLC dated July 21, 2010.

Mr. Rincones explained the proposed addition as shown on the plan and noted that it would be 14'6" x 5'. This proposed addition is not near the cesspool septic system which is located in the front of the house and works fine. He explained that it was an oversight that neither he nor the architect knew that a change in footprint triggers the need to replace the cesspool system with a Title 5 septic system.

Mr. Canning explained that Mr. Rincones has requested relief from the Orleans Board of Health regulations defining a failed septic system as a cesspool.

Board members discussed the condition of the cesspool. It was suggested that Mr. Rincones have the cesspool pumped and inspected for structural integrity.

On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of 4 Eli Rogers Road, owner, Rincones. Findings are that this is a small two-bedroom house served by a cesspool. The owner is requesting a 72.5 square foot expansion to his kitchen to accommodate a swing door. This requires an upgrade of the septic system. I move that we grant the variance and approve the increase in square footage, with the condition that the cesspool be inspected for integrity and pumped. The vote was 4-0-0.

The Board of Health took a short recess, and at 3:28 p.m. the meeting reconvened.

Agenda Item 10 – Approval Request – 257 Route 6A

Mr. Canning discussed the use of an I/A technology septic system for the development proposed at 257 Route 6A, the John Hinckley affordable housing project. The proponent had applied for permits and now has approval from the Mass Department of Environmental Protection. When previously discussed by the Board of Health, they agreed that they would establish conditions for monitoring and sampling the facility following approval by the State. This project has also been approved by the Zoning Board of Appeals and they are proceeding with the permitting process. Mr. Canning noted that there will be ten bedrooms in four dwellings on 72,000 square feet of land. The proposed septic system consists of a collection system, a 1.5 High Strength FAST unit, and a 2,000 gallon pump chamber discharging by pressure distribution to a soil absorption system.

Board members discussed I/A systems at other affordable housing projects in Orleans. They discussed the ownership of the units and how to designate the responsible party to be identified in the motion. There should be some means to notify the residents of the type of septic system they have and that it is their responsibility to maintain it.

Mr. Canning reported that there will be four individual owners who will each own their own lot, and all four owners will own the common lot on which the septic system is located.

Board members discussed the possibility that all four owners may not agree to share the cost of maintenance or repairs. Mr. Canning explained that there is a State requirement that the owners must have an account with money set aside for repair of the septic system.

On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of the John Hinckley Housing Authority project that will be built at 257 Route 6A, to consist of homes for four people. The following conditions shall be placed on the installation, operation, and maintenance of the FAST system.

- 1. They shall comply with all the quarterly testing as previously applied to these I/A systems. That would be BOD, TSS, nitrates, and pH. This will be reported to the Carmody System and nitrogen shall be 19ppm or lower.**

2. **Because of the joint ownership of this single system, which will be placed on a commonly-owned lot, each homeowner shall be informed of the restrictions and these conditions shall be registered at the Registry of Deeds.**

Dr. Schneider amended the motion to read that the project will “consist of homes under four owner-ships.” Attorney Taylor amended the motion to read that “An escrow fund is maintained to ensure that there are sufficient funds to maintain the system.” Ms. McKusick accepted the amendments and Dr. Schneider included both amendments in his second.

The vote was 4-0-0.

Mr. Canning was asked to ensure that there is clear documentation that clearly defines the joint responsibility for operation and maintenance of the FAST system. In response, he noted that the Mass. DEP’s approval, condition No. 9 requires the recording of a notice for each property regarding the shared system at the Registry of Deeds upon sale of each property; and condition No. 12 requires establishment of an escrow account for the operation and maintenance of the shared system.

Agenda Item 11 – Approve Minutes

The minutes of the Board of Health meeting held on July 8, 2010 had previously been distributed to Board members for review.

On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted to approve, as modified, the minutes of the meeting held on July 8, 2010. The vote was 3-0-1. Ms. Suraci abstained from the vote.

It was noted that the “unofficial” minutes of the meeting of the Board of Selectmen on July 14, 2010 at which the members of the Board of Health joined them was included in the Board of Health packet for this meeting. At that meeting they discussed the future disposal costs for the transfer station and the possibility of creating a program to register privately-owned rental homes in Orleans. The joint Boards also elected Elizabeth Suraci to the Board of Health with a term to expire on May 16, 2011.

Agenda Item 12 – Health Agent’s Report

Mr. Canning reported on the following Licenses and Permits:

Temporary Food Service Permits

Lower Cape Pop Warner

Kristin Dash, representing the Lower Cape Bluefins, has requested two Temporary Food Permits for four football games to be held at the Nauset Regional Middle School field on September 19, September 26, October 3, and October 17 from 9:00 a.m. to 3:00 p.m. This is a non-profit organization; therefore there is no requirement for a Certified Food Protection Manager. However, the menu has potentially hazardous food items and they will be cooking outside.

They will be serving coffee, hot chocolate, muffins, and donuts from Dunkin Donuts from 9:00 a.m. to 11:00 a.m. Hot dogs and hamburgers will be grilled outside from 11:30 a.m. to 3:00 p.m. Bottled water, soda, juice, granola bars, and chips will be available all day.

All food will be purchased (or donated) from a licensed food establishment and stored at a licensed food establishment (EPOCH of Brewster) until it is brought to the field the day of the games. Hamburgers and hot dogs will be kept in coolers with ice; and the frozen hamburgers will be cooked from a frozen state. Hand washing facilities are not available on-site, therefore, a hand washing station will be set up using a bucket with spigot, hand soap and paper towels. Hand sanitizer will be used after the soap and water. All potentially hazardous food items will be discarded at the end of the day. Pre-packaged, shelf-stable items will be stored at the licensed facility until the next use. Tongs, gloves and wax paper will be used for service with extra uten-

sils available if needed. Only disposable items will be used for customer service. A tent will be provided over the cooking and serving areas. Porta potties will be available.

The group is requesting two Temporary Food Permits for four events and each permit is valid for two weeks.

On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted to grant the two variances and two Temporary Food Permits to the Pop Warner Lower Cape Bluefins events on September 19, September 26, October 3, and October 17, 2010. The vote was 4-0-0.

Lower Cape Pop Warner

Kristin Dash, representing the Lower Cape Bluefins, has requested six Temporary Food Permits for football practices to be held at the Nauset Regional Middle School field on three days per week from August 13 through October 29, 2010. The menu will be limited to non-potentially hazardous food items.

They will be serving bottled water, soda, juice, granola bars and chips. All items will be pre-packaged, purchased at a licensed food establishment, and stored at EPOCH of Brewster. Hand sanitizer and Porta potties will be available.

On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted to grant Temporary Food Permits, six of them, each of a fourteen (14) day duration, between August 13 and October 29, 2010 for the Pop Warner football practices as described. The vote was 4-0-0.

Orleans Chamber of Commerce

Mary Corr has requested a Temporary Food Permit to serve prepackaged items at Pops in the Park at Eldridge Field on Saturday, August 28, 2010 with a rain date of August 29, 2010 from 5:00 p.m. to 9:00 p.m. They will be serving pre-packaged brownies, cookies, coffee, bottled water and canned soda. Everything will be pre-packaged and single use articles. Restrooms and Porta-potties are available onsite. Hand-washing facilities will be available at public restrooms; hand sanitizer will also be available.

On a motion by Dr. Schneider and seconded by Ms. McKusick, the Board of Health voted in the matter of the Orleans Chamber of Commerce for the Pops in the Park to approve the Temporary Food Permit for the prepackaged foods and single-use articles. The vote was 4-0-0.

Orleans Farmers' Market – Item 12-1

Outer Cape WIC is seeking permission to have WIC (Women, Infants and Children nutrition program) provide samples of salsa with chips and vegetable sticks at their booth for an undetermined date in September. Salsa will be prepared at a licensed kitchen. All food items will be transported and held at proper temperatures in coolers. Service will be in individual containers and no self service will be allowed. There will be no bare hand contact with the ready-to-eat foods. The proponent would like to be approved to provide this service under the umbrella Temporary Food Permit of the Orleans Farmers' Market.

On a motion by Dr. Schneider and seconded by Ms. McKusick, the Board of Health voted in the matter of WIC (Women, Infants and Children nutrition program) to provide samples of salsa with chips and vegetable sticks at their booth for an undetermined date in September. It should be conditioned that this approval is to be for a single day in September and that trash facilities would be available to dispose of the single serving dishes.

Ms. Suraci noted that it is unusual that WIC would be distributing salsa and chips. Board members surmised that the samples would be used to demonstrate to people how to utilize fresh produce and also to distribute informational material about WIC.

The vote was 4-0-0.

Mr. Canning explained that the following request for a variance was received at 12:30 p.m. on August 12, 2010 and has not been listed on the Agenda in the items for discussion.

Variance Request – 6 Nichols Road

The Health Department has received a request for installation of an underground liquid propane tank at 6 Nichols Road. The proposed tank is a single wall tank constructed specifically for underground use only. The variance being requested is to the Orleans Fuel Storage Tank Regulation which requires tanks holding liquid petroleum products to be a double wall tank with an interstitial monitoring device. AmeriGas, as agent for the owner, advises that due to its low boiling point, propane would not leak as a liquid if the tank should fail, but rather the gas would vaporize.

Mr. Canning noted that in the past the Board of Health has also granted variances to the testing requirements (pressure test tank and piping).

On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted to approve the underground liquid propane tank at 6 Nichols Road. The vote was 4-0-0.

Underground Liquid Propane Tank Policy

As previously requested by the Board of Health, Mr. Canning distributed a draft Underground Liquid Propane Storage Tank Policy. (*Exhibit 12 – 1, dated August 12, 2010*) This policy would authorize the Health Department to grant variances for the installation and monitoring of underground liquid propane storage tanks. These variances would later be ratified by the Board of Health.

On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted to adopt the policy that is listed in the bottom paragraph on the hand-out that is in bold print as stated in the Underground Liquid Propane Storage Tank Regulation.

In response to an inquiry about limiting the size of a tank, Mr. Canning explained that the size of the tank is monitored by the plumbing inspector. He also noted that there is an existing Underground Storage Tank Regulation but it does not regulate size.

The vote was 4-0-0.

Dr. Schneider suggested that this new policy be publicized. Mr. Canning explained that the Health Department has not publicized new policies in the past. Attorney Taylor recommended that it would not be appropriate to do anything formally since it has not been past practice to publicize new policies. Mr. Canning suggested that he could notify AmeriGas and the gas inspector of this new policy.

Agenda Item 13 – Review Correspondence / Old and New Business

Old Business

Attorney Taylor inquired whether Mr. Canning has been able to meet with Mr. Kelly about the escalation of transfer station fees in 2015 and possible actions to be taken by the Board of Health and/or the Board of Selectmen. Mr. Canning reported that he met with Mr. Kelly shortly after the July 14, 2010 joint meeting. However, at this time they do not have any specific recommendations to be considered.

Correspondence

13 – 1 A letter dated August 4, 2010 from Teri A. Jordan, attorney representing the 51 Briar Springs Family Trust, regarding the order to repair/replace the septic system had previously been distributed to Board members for review and discussion. Attorney Taylor noted that he is in favor of granting the request for an extension of sixty (60) days. Ms. McKusick suggested that the order to repair be extended to January 2, 2011.

On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted to grant the request received by Teri A. Jordan who is counsel for the 51 Briar Springs Family Trust, and we give the extension until January 2, 2011. The vote was 4-0-0.

13 – 2 A letter dated July 22, 2010 from the Orleans Health Department to McAdams, tenant at 33 Eli Rogers Road, had previously been distributed to Board members for review and discussion.

13 – 3 A letter dated July 22, 2010 from the Orleans Health Department to Albert, owner of the property at 33 Eli Rogers Road, had previously been distributed to Board members for review and discussion.

Mr. Canning reported that Mr. Albert, the owner, refuses to take any action on any issues, one of which is a "Condition Deemed to Endanger". Town Counsel will write a letter informing the owner that he must take some action; either an appeal the order to the Board of Health, or by making the repairs. Mr. Canning asked the Board members for authorization to work with Town Counsel to resolve this conflict.

On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted to authorize the Health Agent to work with Town Counsel to resolve the conflicts regarding the property at 33 Eli Rogers Road. The vote was 4-0-0.

13 – 4 A draft Emergency Action Plan for Interruption of Electrical Service had previously been distributed to Board members for review and discussion.

13 – 5 A draft Boil Water Emergency Action Plan had previously been distributed to Board members for review and discussion.

Mr. Canning explained that these draft emergency action plans are based on criteria from Mass. Department of Public Health. Because of recent events when other towns have been required to boil water and because of the frequent power outages, it became evident that there is a need for procedures to be in place. The Health Department would distribute these action plans to restaurants and discuss with them how the facility would handle these situations. Owners would be asked to submit their emergency plans to be on file in the Health Department so they would be ensured that the owners know how to handle these situations. Attorney Taylor suggested that the draft plans be sent to owners now and notify them that during annual license renewal they would be required to submit their individual action plans to the Health Department.

Attorney Taylor suggested that Board members finalize and approve the draft Emergency Action Plan for Interruption of Electrical Service and draft Boil Water Emergency Action Plan, subject to Dr. Davis having had an opportunity to read and understand them.

Dr. Schneider suggested that because the action plans will affect the restaurants, drafts should be sent to them for their comment and input. Attorney Taylor expressed concern that the Board would not get comments in a timely manner. Ms. McKusick commented that these plans are a tool and plan for dealing with specific situations. Mr. Canning explained that the Boil Water plan makes it clear how to deal with a boil water order. He also explained that it is essential that vendors take temperatures continually during a power outage. Ms. Suraci noted an example of how having guidelines to follow enabled an owner to step-by-step ensure the safety of people in an establishment. She also suggested that these action plans be shared with the Fire and Police Departments.

On a similar subject, Ms. McKusick asked if the Water Department would provide bottled water to residents if an emergency Boil Water order was issued. It was her understanding that they would not because of the logistics of distribution and also because there is no budget item in the Water Department budget. Ms. McKusick spoke for the record that although the Board of Health is responsible to protect the public health and if a Boil Water order is issued, following those guidelines strictly will protect the public health. The Board of Health does not have an action plan to distribute bottled water nor a budget to distribute bottled water to residents. Ms. McKusick asked that Ms. Christie discuss this issue at the Board of Selectmen's meeting; and that the Finance Committee should discuss including a budget item for bottled water distribution. Mr. Barr noted that there has been no discussion of this issue to date.

13 – 6 A two-year summary of I/A Technology systems in Orleans had previously been distributed to the Board members for their review and discussion. Mr. Canning reviewed the individual property listings and noted that he had heard from most of the owners. Most responded with proposals to improve their operation to come into compliance, and some have communicated with their O&M managers. He also included information from the latest service and testing date. Mr. Canning suggested including additional information as the owner or operator continues monitoring their I/A system. Attorney Taylor expressed appreciation to Mr. Can-

ning and Ms. McKusick for their effort to compile this information and that it will continue to be a valuable tool for the Board of Health to review. Ms. McKusick suggested sending a copy of this report to George Heufelder at the Barnstable County Department of Public Health.

13 – 7 The minutes of the Orleans, Brewster, Eastham Groundwater Protection District Board of Managers Meeting of April 16, 2010 had previously been distributed to the Board members for review and discussion.

13 – 8 The minutes of the Orleans, Brewster, Eastham Groundwater Protection District Board of Managers Meeting of May 26, 2010 had previously been distributed to the Board members for review and discussion.

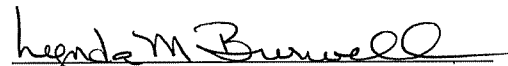
13 – 9 The Bi-Monthly Transfer Station Inspection Report for July, 2010 had previously been distributed to the Board members for review and discussion. Mr. Canning noted that the Transfer Station is in full compliance.

There was no further business to discuss.

Agenda Item 10 – Adjournment

On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted to adjourn this meeting of the Board of Health at 4:20 p.m. The vote was 4-0-0.

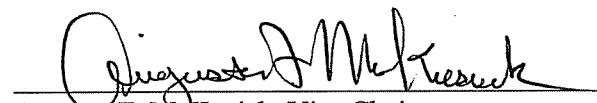
Respectfully submitted,

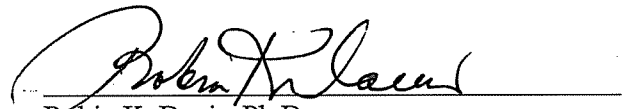

Lynda M. Burwell, Board Secretary

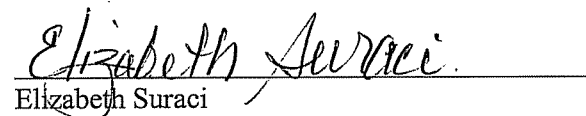
ORLEANS BOARD OF HEALTH

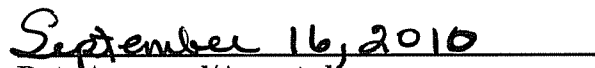

Attorney Job Taylor, III; Chairman

Jan Schneider, M.D.


Augusta F. McKusick, Vice Chairman


Robin K. Davis, Ph.D.


Elizabeth Suraci


Date Approved/Accepted

**DOCUMENTS PROVIDED FOR THE August 12, 2010
MEETING OF THE ORLEANS BOARD OF HEALTH**

Agenda Item 2 – 5 Holly Lane

- 2 – 1 – Hearing Request Form submitted by Ryder & Wilcox
- 2 – 2 – Application for Disposal System Construction Permit and Certificate of Compliance dated July 24, 2009
- 2 – 3 – Excerpt of Title 5, Section 15.301, System Inspection

Agenda Item 3 – 123 S. Orleans Road, Units 1, 5, & 6

- 3 – 1 – Letter from Patricia L. White dated August 8, 2010
- 3 – 2 – Orleans Health Department letter to owners dated June 21, 2006
- 3 – 3 – Orleans Health Department letter to owners of Units 1, 5, & 6 dated August 10, 2009
- 3 – 4 – Orleans Health Department letter to Jeffrey W. Dreyer, Unit 5 dated November 13, 2009

Agenda Item 4 – 17 Industry Way

- 4 – 1 – Orleans Health Department letter to owners Logan Chin & Ann Baronousky dated July 14, 2010
- 4 – 2 – Letter from Ann Baronousky to Board of Health dated July 22, 2010

Agenda Item 5 – 41 Route 6A

- 5 – 1 – Letter from Tyler & Anna Keyes to Board of Health dated August 5, 2010
- 5 – 2 – Excerpt of Title 5, Section 15.203, System Sewage Flow Design Criteria and Section 15.301, System Inspection
- 5 – 3 – Proposed On-Site Sewage Treatment and Disposal System plan by Ryder & Wilcox dated August 23, 2000

Agenda Item 6 – 29 Giddiah Hill Road

- 6 – 1 – Orleans Health Department letter to Daniels Recycling Company, Inc. dated July 22, 2010
- 6 – 2 – Compilation of DRCI Monthly On-Site Storage Details
- 6 – 3 – Orleans Health Department letter to Daniels Recycling Company, Inc. dated July 29, 2010
- 6 – 4 – Orleans Health Department Inspection – DRCI July Materials Amounts
- 6 – 5 – Orleans Board of Health Construction & Demolition Facility Inspection Report dated July 27, 2010
- 6 – 6 – Orleans Health Department Inspection – DRCI August 6, 2010 Materials Amounts
- 6 – 7 – Mass. Department of Environmental Protection letter to DRCI dated July 7, 2010 RE: Approval with Conditions

Agenda Item 7 – 219 Main Street

- 7 – 1 – Letter from owner, Whitford G. Boyd to Orleans Health Department dated June 1, 2010
- 7 – 2 – Orleans Health Department letter to Whitford & Margaret Boyd dated May 10, 2010
- 7 – 3 – Orleans Health Department letter to Whitford & Margaret Boyd dated August 4, 2010
- 7 – 4 – Orleans Health Department letter to tenant Roberto & Lora Frausto dated 4, 2010
- 7 – 5 – Excerpt of Chapter II, Mass. Housing Code, Section 410.840: Variances; and Section 410.750: Conditions Deemed to Endanger of Impair Health or Safety
- 7 – 6 – Variance Motion Worksheet for 219 Main Street

Agenda Item 8 – 20 Hopkins Lane

- 8 – 1 – Orleans Health Department letter to Timothy Murphy dated July 26, 2010
- 8 – 2 – Summary of Activity – Outstanding Order – Cesspool

Agenda Item 9 – 4 Eli Rogers Road

- 9 – 1 – Hearing Request Form submitted by owners Ralph A. Rincones and Dianne Gregory
- 9 – 2 – Town of Orleans, Massachusetts Tax Map No. 74
- 9 – 3 – Site Sketch by Peter J. Coneen LLC dated July 22, 2010
- 9 – 4 – Additions Plan by Peter J. Coneen LLC dated July 21, 2010

Agenda Item 10 – 257 Route 6A, John Hinckley Estates

- 10 – 1 – Mass. Department of Environmental Protection approval letter to Orleans Town Administrator dated July 9, 2010
- 10 – 2 – Application for Disposal System Construction Permit dated December 14, 2009
- 10 – 3 – Orleans Health Agent memo to Orleans Board of Appeals dated October 27, 2009
- 10 – 4 – Orleans Health Department letter to Coastal Engineering Company, Inc. dated October 27, 2009

Agenda Item 11 – Approve Minutes

- 11 – 1 – Orleans Board of Health Minutes of Meeting held July 8, 2010
- 11 – 2 – Excerpt of Unofficial Minutes of Orleans Board of Selectmen Meeting held July 14, 2010

Agenda Item 12 – Health Agent's Report

- 12 – 1 – Outer Cape WIC letter dated August 3, 2010
- Exhibit 12 – 1 – Handed at the meeting – *Proposed Orleans Board of Health Underground Liquid Propane Storage Tanks*

**DOCUMENTS PROVIDED FOR THE August 12, 2010
MEETING OF THE ORLEANS BOARD OF HEALTH – Page 2**

Agenda Item 13 – Review Correspondence / Old – New Business

- 13 – 1a – Attorney Teri A. Jordan letter dated August 4, 2010 RE: 51 Briar Springs Road
- 13 – 1b – Orleans Health Department letter to Attorney Teri A. Jordan dated April 27, 2010
- 13 – 1c – Orleans Health Department letter to Maureen Schouman Trustee dated January 20, 2010
- 13 – 2 – Orleans Health Department letter to Robert & Lorraina McAdams, tenants at 33 Eli Rogers Road
- 13 – 3 – Orleans Health Department letter to George Albert, owner of the property at 33 Eli Rogers Road
- 13 – 4 – Draft Emergency Action Plan for Interruption of Electrical Service
- 13 – 5 – Draft Boil Water Emergency Action Plan
- 13 – 6 – I/A Technologies 2 Year Summary
- 13 – 7 – Orleans, Brewster, Eastham Groundwater Protection District Board of Managers Meeting Minutes for April 16, 2010
- 13 – 8 – Orleans, Brewster, Eastham Groundwater Protection District Board of Managers Meeting Minutes for May 26, 2010
- 13 – 9 – Stearns & Wheler Inspection Report dated July 30, 2010 Bi-Monthly Transfer Station Inspections