

TOWN OF ORLEANS – BOARD OF HEALTH MINUTES OF MEETING

January 19, 2012

The Board of Health convened its meeting at 2:00 p.m. on Thursday, January 19, 2012 in the Skaket Meeting Room of the Orleans Town Hall.

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

Excused: Robin Davis, Ph.D.

Agenda Item 1 – Public or Press

Nauset Farms

Mr. Sethares requested that the Board of Health grant an extension to the standing order to repair the floor of his walk-in freezer, and a permit to allow Nauset Farms to open on a limited basis. Because he has merged the former Deli into the Nauset Farms store, he will need additional time (90 days) for renovations to accommodate the merger. He proposed that the butcher shop be allowed to open this month, while the remainder of the establishment will open in the spring.

Mr. Canning reported that prior to the opening and during the operation of the establishment in 2011 the Board of Health granted variances and waivers for the opening of Nauset Farms:

On June 2, 2011 the Board of Health approved an extension to the requirement that the walk-in freezer floor be repaired before the establishment opened for the 2011 season. (The floor is buckling and has a large open gap exposing the plywood beneath and is not easily cleanable). The Board approved this with the following conditions:

- The gap in the floor must be covered by an impervious, easily cleanable, removable floor mat. This mat is to be removed and cleaned as needed.
- The floor in the freezer must be repaired prior to the facility being licensed for calendar year 2012.

On October 20, 2011 the Board voted to approve the following:

- An extension to the Allergy Certification requirement has been granted until the training can be attended in January. (According to Rob Sethares during a phone call this week, four people are registered for a CFPM course at the end of February, including allergy training.)

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted to grant a 90-day extension limited to the butcher shop only. All other work required must be complete prior to the opening of the entire store and that the butcher shop be protected from any building materials or anything that is going on during the construction. The vote was 4-0-0.

Agenda Item 2 – Variance Request – 48 Route 6A – Roadway Inn

Mr. Stefano Molnar of SDM Restorations and Building Services, Inc. represented Mahesh Patel, owner of the property at 48 Route 6A. Mr. Molnar explained the owner's proposal to enclose the carport. It was suggested that he needs a three-foot variance to allow for a ten-inch wide concrete footing to support the windows and a door and act as a water barrier for the enclosure. He showed photos of the current and proposed construction. There will be no plumbing or electric in the new enclosure.

Mr. Canning explained that this enclosure will increase the square footage of the building requiring that reserve areas for the septic system be shown on the plan. Although some of the system components are fairly new, there are still some remaining 1978 Code septic components. He noted that the required variance is seven feet to allow the footing to be three feet from the septic tank. He reported that the Reserve Areas are shown on the plan to comply with Title 5.

Board members discussed the new traffic pattern after eliminating the carport. Mr. Molnar explained there would be no restriction to the traffic entering or exiting the driveway.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of Roadway Inn, 48 Route 6A. Findings are that the property owner's wish to enclose non-bearing walls with aluminum siding and windows in a carport will increase the square footage of the property and it will not have a crawl space or a full foundation. I move that we grant a variance for construction with a seven-foot (7') variance to the slab footings to the subsurface sewage system. This is conditioned that we have an as-built plan when the project is finished. I would also note that it is impossible to indicate reserve areas on this property; however notations made to the 6/18/09 plan indicate that this structure will not impose on any future possible areas for reserve. The design engineer or sanitarian must certify to the Board of Health that the construction of the footing has not had an impact on the septic tank. The vote was 4-0-0.

Agenda Item 3 – Definitive Subdivision – 79 & 89 Portanimicut Road

Mr. Philip Scholomiti of Ryder & Wilcox represented The Sand Heap Trust I Nominee Trust, owner of the property at 79 and 89 Portanimicut Road. Mr. Scholomiti reviewed that this is a two-parcel division off Portanimicut Road. Currently the northerly lot contains two dwellings, a seasonal cottage and a larger dwelling. Division into two lots will create a panhandle driveway to allow access to the southerly lot which is currently unbuildable. A bedroom count of the main dwelling revealed that it contains nine bedrooms, and the guest cottage has three bedrooms. The septic system was inspected and shows that both dwellings are served by cesspools which will need to be upgraded.

Mr. Canning reported that the lot area for the proposed lots were as follows: Lot 1 contains 199,796 square feet (4.59 acres) and Lot 2 contains 130,607 square feet (3 acres).

He also noted that because the cesspools must be abandoned and a new soil absorption system installed, this detail could not be shown on the current site plan.

Mr. Scholomiti explained that according to the Conservation Commission there are no issues with a new septic system for the division. Also, he confirmed that town water will serve this subdivision if approved.

Board members discussed whether the existing well would remain for non-potable water. Asked if there would be any problems locating new septic components Mr. Scholomiti responded that because there are no wetlands there would be no problem.

On a motion by Mrs. McKusick and seconded Dr. Schneider, the Board of Health voted to approve the Definitive Subdivision Plans for 79 and 89 Portanimicut Road. Conditions are that they must have town water, and no variances will be granted for either parcel for installation of septic systems. The septic systems will have to be upgraded. Plans as described on the document dated November 14, 2011 meet the Nutrient Management Regulations for the Town. The vote was 4-0-0.

Agenda Item 6 – Approve Minutes

The minutes of the Board of Health meeting held on January 5, 2012 had previously been distributed to Board members for review and discussion.

On a motion by Dr. Schneider and seconded by Mrs. Suraci, the Board of Health voted to approve as presented the minutes of the meeting held on January 5, 2012. The vote was 4-0-0.

Agenda Item 7 – Review Correspondence / Old and New Business

7 – 1 – The MEP Linked Watershed Embayment Model Peer Review report dated December 30, 2011 had previously been distributed to Board members for review and discussion. This is an abbreviated copy of the report including the Executive Summary, Conclusions, and Recommendations. The full report may be read in the Health Department or online.

7 – 2 – A report of the Water Quality Monitoring Program Discharge Permit #109-1 for the Orleans Bowling Center / Maytag Laundromat for the year 2011 prepared by Coastal Engineering Co., Inc. had previously been distributed to Board members for review and discussion. This is a Discharge Permit required by the State.

7 – 3 – A letter from GHD dated January 9, 2012 reporting on the Summary of Quarterly Gas Sampling at the Orleans Landfill had previously been distributed to Board members for review and discussion. Monitor well No. 5 had a high level of gas, however, Mark Budnick has been working on the flare to ensure its efficient operation. In response to an inquiry of how long will the landfill would continue to produce methane, Mr. Canning responded that the amount of methane produced would continue to decrease over the years. In the future the flare would not be running as long as it has.

7 – 4 – The Cape Cod Medical Reserve Corps Newsletter dated January 1, 2012 had previously been distributed to Board members for review and discussion.

Agenda Item 8 – Health Agent's Report

8 – 1 – A Planning Board memo dated January 5, 2012 regarding the Definitive Subdivision Plan for Sand Heap Trust 1 Nominee Trust for land located at 79 & 89 Portanimicut Road had previously been distributed to Board members for review and discussion. This item was discussed in Agenda Item 3.

Permits

Septage Collection and Transportation

C. Kelley Disposal LLC D.B.A Pitstop Portable Restroom located at 774 Rte 6A, Wellfleet MA had applied for a Septage Collection and Transportation License.

On a motion by Dr. Schneider and seconded by Mrs. Suraci, the Board of Health voted in the matter of C. Kelley Disposal to grant a Septage Collection and Transportation License. The vote was 4-0-0.

Septic Installer License

R.J. Bevilacqua Construction Corp. established at 152 Kiahs Way, Sandwich MA had applied for a Septic Installer License.

On a motion by Dr. Schneider and seconded by Mrs. Suraci, the Board of Health voted in the matter of R.J. Bevilacqua Construction Corp. to grant a Septic Installer License subject to receipt of references by the Health Department. The vote was 4-0-0.

David Milliken of Heather Lane, in N. Truro MA had applied for a Septic Installer License.

On a motion by Dr. Schneider and seconded by Mrs. Suraci, the Board of Health voted in the matter of David Milliken to grant a Septic Installer License subject to receipt of references by the Health Department. The vote was 4-0-0.

Mr. Canning reported that the Health Department has started working on new policies for the Farmers' Market. Mrs. Suraci, as a representative from the Board, acknowledged that she has enjoyed working on the project.

Agenda Item 4 – Hearing Continuation – 2:30 p.m. – 7 Prence Lane

Mr. James Andrew Badera, Jr., agent for Lee and Barbara Ragsdale, owners of the property at 7 Prence Lane was present at this hearing.

Mr. Canning reported that on December 15, 2011 the Board of Health held a hearing regarding the outstanding order to repair the septic system at 7 Prence Lane. Present at the hearing for the owners was James Badera. The Board of Health reviewed the history of the property and the status of the outstanding orders. Mr. Badera informed the Board that he has been retained by the owner on December 7, 2011 and since that time he has:

- Met with the Health Department to review the history of the project.
- Contacted a system installer who is preparing an estimate for construction.
- Applied for a Disposal Works Construction Permit.
- Filed for an Administrative Review with the Conservation Commission.
- Had the existing septic system inspected and pumped.
- Prepared for the installation of the septic system once the permit has been issued.

At the conclusion of the hearing the Board of Health voted to continue the hearing to January 19, 2012 at which time they would review:

- An updated time table for the completion of the new septic system.
- A report on the status of the existing cesspools.

Since the hearing Mr. Canning reported that:

- January 4, 2012 – the Health Department received a revised sewage disposal system plan for the septic system.
- January 5, 2012 – the Health Department approved the Disposal Works Construction Permit.
- January 12, 2012 – Tom Brady, a Licensed Disposal Works Installer signed out the approved plan for installation

In addition, Mr. Canning has spoken with Mr. Badera, who had been retained by the owner of the property to coordinate the repair of the septic system. According to Mr. Badera, the installation of the septic system should begin in the next two weeks and be completed prior to the February 4, 2012 deadline.

Board members congratulated Mr. Badera who updated the Board on the following:

- December 20, 2011 – Received approval from the Conservation Commission for the Administrative Review.
- Spoken to the Health Department for updates to plans for JM O'Reilly to incorporate this information into the plans.
- December 28, 2011 – Walked through the house for a bedroom count and provided that information to the Health Department.
- December 28, 2011 – Walked the site and found no sign of sewage or odor above the ground on the property.
- January 4, 2012 – Resubmitted plans with revised costs approved by the owner.
- January 5, 2012 – The Disposal Works Construction Permit was issued.
- January 10, 2012 – The septic system installer submitted a new proposal based on the revised cost estimate.

- January 12, 2012 – Permit was obtained by Tom Brady.
- January 14, 2012 – Contract was signed to begin by January 30, 2012, however, many trees must be taken down to open up the road access.

Board members inquired about weather-related delays to which Mr. Badera explained that if there is any delay he would report to the Health Department. It was suggested that the Board close the hearing after extending the deadline; however, Mr. Canning recommended that the Board continue the hearing to a set date and if the septic system is installed prior to that date the continuation would be canceled and the owner would be notified that compliance has taken place.

On a motion by Attorney Taylor and seconded by Mrs. McKusick, the Board of Health voted in the matter of 7 Prence Lane to set a continuation, if necessary, to March 15, 2012 at 2:00 p.m. In the event that the septic system is taken care of and the Health Agent is satisfied he will advise the Board and we will close the hearing. The vote was 4-0-0.

For discussion purposes Mrs. McKusick requested that Mr. Badera suggest a ballpark price of what it would cost an average homeowner to replace a septic system. Although many varied conditions would affect the cost, he acknowledged that it would most likely be more than \$10,000. Costs would be based on engineering, installation, soil conditions, and possible variances. Board members thanked Mr. Badera for taking the time to discuss this matter with them.

At this point, Attorney Taylor declared a fifteen minute recess. At three o'clock Attorney Taylor reconvened the meeting.

Agenda Item 5 – Hearing Continuation – Daniels Recycling Company, Inc. – 3:00 p.m.

Mr. Steve Daniels of Daniels Recycling Company, Inc. was present for this hearing.

Attorney Taylor pointed out that the Health agents had visited DRCI a couple of weeks after the November 17, 2011 hearing and found the facility in excellent condition, meeting all requirements of the storage allowances. However, at the January 17, 2012 inspection the facility was no longer in compliance. He stressed that DRCI is supposed to be in compliance all the time. Attorney Taylor also noted that their Contingency Plan is impressive considering the many issues to be addressed.

Mr. Canning reported that on November 17, 2011, the Board of Health held a hearing to discuss the operation of the Daniels Construction and Demolition Waste Processing and Handling and Wood Waste Facility, 29 Giddiah Hill Road, Orleans. The purpose of this hearing was to determine if there are any violations of the conditions of the DRCI's Site Assignment, Permit to Operate, or 310 CMR 19.000.

At the meeting, the Board members reviewed and discussed:

- Its recent dealings with DRCI including amending the Site Assignment, approving changes to the operation, and meetings to discuss deficiencies at the facility.
- The Health Department's compliance inspections.
- The ongoing deficiencies at the facility.

After discussing the above, the Board of Health voted the following

- Daniels Recycling Company, Inc. must be in full compliance with all regulations and approvals by January 16, 2012. In addition, Daniels Recycling Company must submit, within 30 days (December 17th), a contingency plan for all aspects of the Construction and Demolition Waste, Processing and Handling, and Wood Waste Facility.
- The Board of Health would continue its hearing on Thursday, January 19, 2012, to determine if it will proceed to modify, suspend, or revoke the facility's Site Assignment.

On December 15, 2011, and revised January 17, 2012 the Health Department received a Contingency Plan for the DRCI facility covering the following areas:

- Misting System
- Ventilations System
- Fencing
- Hazwoper & Asbestos Trained Employees
- Covered Outdoor Storage Containers
- Vector Control
- Stored Material Back-up

The Health Department also received a letter from DRCI stating that the outstanding engineering reports dated November 2009, December 2009 and January 2010 had never been created and cannot be produced. In addition, on January 17, 2012 the Health Department received a telephone call from Green Seal Environmental stating that the September, October and November 2011 reports will be submitted to the Health Department by week's end.

The Health Department conducted an inspection of the facility on January 17, 2012 and at the time of the inspection the following were noted:

- The total aggregate on the property was 89 cubic yards where the FAM allows 40 cubic yards.
- Total metal on site is 106 cubic yards where the FAM allows 80 cubic yards.
- The previously mentioned inspection reports have not been received.

All other inspected items were in compliance. Most of the metal material was in roll-offs ready to be trucked away. Aggregate is a product that spreads out and could not be accurately measured.

Board members discussed whether the missing reports will ever be received. Mr. Canning responded that he does not expect them because they were never generated. However, they should receive the missing reports from this fall by the end of this week. While discussing a fictitious scenario they talked about the stored material backed up and how DRCI would use its contingency plan to address that situation. Mr. Daniels responded that bulky materials such as mattresses present a situation where volume exceeds the allowed storage capacity but is under permitted tonnage. In that situation he would notify the Board of Health that DRCI is taking measures under the contingency plan. They discussed the method of notification to which Attorney Taylor recommended email as the most efficient, giving both parties a record of the notification. Mr. Daniels explained that DRCI would notify Mr. Canning, Ms. Woods, and health.net. It was suggested that the Board of Health review the contingency plan in a year and all parties agreed.

Attorney Taylor expressed that the Board is very pleased with the work completed by DRCI since the last meeting.

On a motion by Attorney Taylor and seconded by Mrs. McKusick, the Board of Health voted in the matter of Daniels Recycling Company, Inc. to close the hearing, and based on the discussion today, which are part of the record, that DRCI will communicate with the Board of Health / Health Department by email any time there is an issue that should be brought to the Board's attention and advise what contingency they will use to get over the hurdle. The staff of the Health Department will work with DRCI on that. This plan will be used for a year. If DRCI finds they need to utilize contingencies too often they will notify the Health Department. If the Health Department is having issues the Board of Health will be notified to schedule another meeting. I would propose that we meet during a regularly scheduled meeting of the Board of Health in January, 2013. The vote was 4-0-0.


Agenda Item 9 – Adjournment

On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted to adjourn this meeting at 3:15 p.m. The vote was 4-0-0.

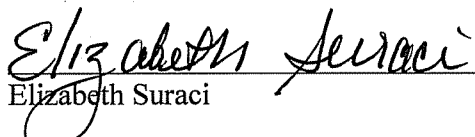
Respectfully submitted,

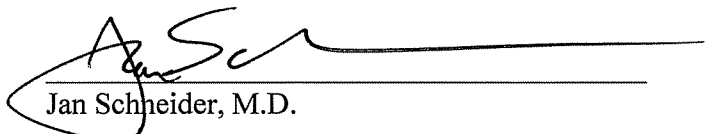

Lynda M. Burwell, Board Secretary


ORLEANS BOARD OF HEALTH



Attorney Job Taylor, III; Chairman

Augusta F. McKusick, Vice Chairman


Elizabeth Suraci


Jan Schneider, M.D.


Excused
Robin K. Davis, Ph.D.


Date Approved/Accepted

**DOCUMENTS PROVIDED FOR THE JANUARY 19, 2012
MEETING OF THE ORLEANS BOARD OF HEALTH**

Agenda Item 2 – Variance Request – 48 Cranberry Highway

- 2 – 1 – Variance Application prepared by Schofield Brothers
- 2 – 2 – Site Plan by Schofield Brothers of Cape Cod dated Rev. 6/18/09

Agenda Item 3 – Definitive Subdivision – 89 Portanimicut Road

- 3 – 1 – Ryder & Wilcox letter, Title 5 Inspection Form, Floor Plan sketches
- 3 – 2 – Definitive Subdivision Plan of Land dated 12/14/11
- 3 – 3 – OHD memo to Orleans Planning Department dated 11/22/11
- 3 – 4 – Excerpt of 11/3/11 OBOH Meeting Minutes

Agenda Item 4 – Hearing Continuation – 7 Prenc Lane

- 4 – 1 – OHD letter to Ragsdale dated 12/19/11

Agenda Item 5 – Hearing Continuation – Daniels Recycling Company, Inc.

- 5 – 1 – OBOH letter to DRCI dated 11/21/11
- 5 – 2 – Contingency Plan – DRCI
- 5 – 3 – DRCI letter to OHD dated 1/16/12
- 5 – 4 – Inspection Report of Material Totals on 1/17/12
- 5 – 5 – Excerpt of 11/17/11 OBOH Meeting Minutes
- 5 – 6 – OHD letter to DRCI dated 11/4/11

Agenda Item 6 – Approve Minutes

- 6 – 1 – Orleans Board of Health Minutes of 1/5/12

Agenda Item 7 – Review Correspondence and Old/New Business

- 7 – 1 – MEP Linked Watershed Embayment Model Peer Review
- 7 – 2 – Water Quality Monitoring Program – Orleans Bowling Ctr. / Maytag Laundry for 2011
- 7 – 3 – GHD letter to MDEP dated 1/9/12 re: Orleans Landfill Quarterly Gas Sampling Results
- 7 – 4 – Cape Cod Medical Reserve Corps Newsletter - 2011

Agenda Item 8 – Health Agent's Report

- 8 – 1 – Memo from Orleans Planning Board dated 1/5/12 re: Definitive Subdivision Plan for 79 & 89 Portanimicut Road