

TOWN OF ORLEANS – BOARD OF HEALTH MINUTES OF MEETING

February 16, 2012

The Board of Health convened its meeting at 2:00 p.m. on Thursday, February 16, 2012 in the Skaket Meeting Room of the Orleans Town Hall.

Present: Chairman Job Taylor, III, Jan Schneider, M.D., Robin Davis, Ph.D., and Elizabeth Suraci. Also present: Health Agent Robert Canning, Selectmen Liaison Susan Christie and

Excused: Vice Chair Augusta McKusick

Agenda Item 1 – Public or Press

There was no one present for Public or Press.

Agenda Item 2 – Hearing Request – 30 Viking Road

Mr. Michael Bosley, agent for the Paul and Mary Bosley Living Trust, owner of the property at 30 Viking Road, was present for the hearing. He explained that this property became the primary residence for his parents in 1978; however, since they have moved from the area he is living in the house until the property is sold. There are five acres and he expects that someone will buy it, demolish the house, and build a larger home, and that the property could sell shortly. He requested that the Board allow him to continue living in the house, having the septic system inspected and pumped, if necessary, until the house is sold. The alternative is to move out and shut off the water until it sells.

Mr. Canning reported that this action resulted from an inspection on sale of the property. The system is not in hydraulic failure but sewage was above the inlet tee of the leaching facility. During a recent inspection the water was to the bottom of the inlet pipe. He suggested a monthly system inspection and pumping if necessary.

Board members discussed pumping the tank. Mr. Bosley noted that he looked at the tank on February 16th and the water level was even lower than when it was inspected.

On a motion by Attorney Taylor and seconded by Dr. Davis, the Board of Health voted to grant the extension of time for six months and permit the house to be lived in as long as an inspection is done once a month and it is pumped if it exceeds a certain threshold. The vote was 4-0-0.

Agenda Item 3 – Hearing Request – 4 Cheney Road

Dr. Nancy Golden, owner of the property at 4 Cheney Road, was present for the hearing. She explained that she has owned the property since 1984; and had occupied it with her pediatric office until the end of June, 2011 with an office on the first floor, and a single tenant in the second floor apartment. The septic system failed upon inspection for sale. The septic tank had been pumped within a year and was recently inspected again to be certain that pumping again was not necessary. She expects to replace the septic system prior to sale, but hoped to wait until the property sells for financial reasons. She will continue to have it inspected and pumped as needed until the property sells. Dr. Golden described the location of the property in relationship to Meetinghouse Pond.

Mr. Canning noted that on August 23, 2011 the Health Department received an Inspection on Sale of a Property report noting hydraulic failure of the septic system. An order to repair the system was sent to the owner in September. He recommended a monthly inspection and that the system be pumped when effluent is above the invert of the leaching facility.

Board members discussed Dr. Golden's unresponsiveness. Dr. Golden explained that she had expected the septic inspector to follow through with the Board of Health. In response to an inquiry Dr. Golden explained that the property is approximately one-quarter of an acre and the apartment is about 900 hundred square feet with one large bedroom and one small bedroom. There is currently one single tenant living in the house; the office area is vacant.

On a motion by Dr. Schneider and seconded Mrs. Suraci, the Board of Health voted in the matter of 4 Cheney Road. Findings are that this is a system that last summer in July was found to be in hydraulic failure. Notification was given to the owner at that time that action needed to be taken. There was some delay because of a misunderstanding that is moot at this point. The issue is that the downstairs was a doctor's office which became vacant in June. There is a small apartment up above the first floor of about 900 square feet occupied by a single tenant which is a two-bedroom unit. The tenant is still there although the pediatric office has become vacant. The plan is now that the house is for sale and that is why the inspection occurred in the first place. The current plan is to replace the septic system as soon as possible as finances allow. It is requested that we allow an extension of the order for immediate replacement; and I move that we allow this on the understanding that there are monthly inspections and pumping when necessary for six months. The vote was 4-0-0.

Agenda Item 4 – Request for Permit – 54 Main Street

Mr. Paul Doel, manager of Carla's, a new restaurant located at 54 Main Street was present at this hearing. The restaurant is owned by Carla DeOliveira. He expects to have a bakery, and be open daily for breakfast, lunch, and perhaps dinner three nights a week; and they want to be able to use the entire space for lunch and dinner. Ms. DeOliveira has been in the food business for several years and is very familiar with the restaurant business. Mr. Doel has done some renovations and is redecorating.

Mr. Canning explained that the Health Department has been working with them to bring the facility into compliance and the restaurant only needs a final inspection before it can open. He suggested that if the Board approves the permit that the approval be subject to a final application and final inspection.

Board members discussed the sewage system. Mr. Canning confirmed that the septic system was repaired several years ago and received a Board of Health variance for drainage setbacks. He also noted that the Cape Cup (previous business) did utilize forty-four seats in its restaurant business. Although the final inspection has not taken place, Mr. Canning noted that the restaurant will be fully compliant with the code.

On a motion by Dr. Schneider and seconded by Dr. Davis, the Board of Health voted in the matter of Carla's, recognizing that the restaurant is still under some renovations and the final permits have not yet been granted, I move that this Board approves it pending the final permits when everything is completed. I do note that the Health Agent emphasized that everything was done in close cooperation and in a positive way. The vote was 4-0-0.

Agenda Item 5 – Approval Request – 121 Route 6A

Mr. Dylan Stanton, owner of the property located at 121 Route 6A, was present at this hearing. He explained that he and his wife (Robin Sullivan) have never dissolved the condominiums but own the two buildings. He was not aware of the requirement that condominium septic systems must be inspected every three years. A recent inspection found that the sewage line running from the Earth House building to the septic tank and leaching field ran through a cesspool which has since been abandoned and filled. Further inspection revealed that the pipe from the main building to the cesspool was constructed of Orangeburg pipe. This pipe has been removed and replaced with PVC pipe.

Mr. Canning explained that Mr. Stanton requested Board of Health approval to modify a septic system built in 1985 and updated in 1996. Although construction was according to code at the time, with altera-

tions the system needs to be in full compliance with the current code. Title 5 requires that a condo have a two-compartment tank. During exploration on this property to locate the septic components, the cesspool was damaged beyond repair; therefore the necessary work proceeded with Health Department knowledge pending approval by the Board of Health. Mr. Canning suggested that the Board approve modification of the system for the Earth House flow to not go through the cesspool prior to going into a 1500 gallon septic tank; and not to require an upgrade to a two-compartment tank.

Board members discussed abandonment of the cesspool. In response to an inquiry, Mr. Canning explained that discovery and damage to the cesspool resulted during a routine inspection of a condominium septic system.

On a motion by Dr. Davis and seconded by Attorney Taylor, the Board of Health voted to approve the modification of the system for the Earth House flow to not go through the cesspool prior to going into a 1500 gallon tank and to not require that that tank be upgraded to a two-compartment tank. The vote was 4-0-0.

Agenda Item 6 – Hearing Request – 59 Finlay Road – 2:30 p.m.

Mr. Canning introduced that this is a continuation of a hearing on October 20, 2011 appealing an order to repair the septic system at 59 Finlay Road. Both the septic tank and distribution box are located in the parking lot and are not rated at H-20 loading for vehicle traffic. He discussed options that the owners might pursue.

Mr. Peter and Mrs. Maureen Fettig and Mr. Thomas Menard, owners of the property at 59 Finlay Road, were present for this hearing. Mr. Menard reported that he had discussed with Ryder & Wilcox the installation of a slab over the septic tank, and that it was brought to his attention that the septic tank has a capacity of 1000 gallons. He posed questions to the Board about whether they would require that the septic tank now be changed to meet the current regulations; and if the current leaching pit failed would they then be required to upgrade the entire system. Mr. Canning informed Mr. Menard that he should request that the Board of Health grant them approval for a modification to a septic system. Mr. Canning noted that the current septic tank is adequate for a repair of the septic system. If there is an increase in flow they would need to upgrade the septic tank to one with two hundred percent capacity. Mr. Menard noted that the poured concrete slab over the septic tank would be most cost effective. Mr. Fettig inquired if the leach pit failed would they need to replace the entire system. Mr. Canning responded they would replace only the leach facility. Mr. Menard questioned if they could replace the current distribution box with one rated for H-20, and then pour a concrete slab over only the septic tank.

Board members discussed the issue that previous inspections never brought this discrepancy to light. Mr. Canning explained that the original plan required H-20 components and was approved but the components were installed differently and shown on a resubmitted plan. The proponents were asked if they had obtained a second opinion of the classification of the components as had been requested at the October meeting. Mr. Menard reported that his original engineer had confirmed that the components are H-10. Mr. Canning suggested that they get further information from Ryder & Wilcox.

Mr. Canning reviewed a follow-up plan from a Building Permit in 1982 that required H-20 components.

A motion was proposed by Attorney Taylor that the Board of Health voted to have them come back to a meeting on March 1 or March 15, 2012 with answers to questions pending. The motion was not seconded.

On a motion by Dr. Schneider and seconded by Dr. Davis, the Board of Health voted in the matter of 59 Finlay Road. This is a continuation of a hearing previously held on October 20, 2011. The issue at stake is that a system was installed some time ago, and it was later discovered that the cover for both the distribution box and septic tank were at an H-10 level, not H-20 even though it was under an area where traffic ran. A secondary issue was that the septic tank is a 1000 gallon septic tank which was totally within code at the time of installation. The building at 59 Finlay Road is a

warehouse which has no occupants, no residents live there. Therefore, the estimated daily outflow is 500 gallons per day. Because of that the 1000 gallon tank does still meet the flow requirement of 200 per cent of estimated flow. The owners have a plan now for a slab which will bring the strength of the covering over the distribution box and septic tank to the H-20 level; and request that they do that over the existing 1000 gallon septic tank understanding that there will be no change in the estimated flow by changing the function of the building from its current status as a warehouse. I move that we approve that.

Dr. Davis amended the motion to say: **The owners have the option to have the slab just over the 1000 gallon tank and to replace the distribution box with an H-20; either one will still meet the same end.** Dr. Schneider continued the amendment to include: **Alternatively, if the owners decide to change any of the components to the H-20 coverage that is perfectly appropriate and acceptable to this Board. This motion is contingent upon there be no change in flow, namely that it continues to function as a warehouse. The vote was 4-0-0.**

Agenda Item 7 – Approve Minutes

The minutes of the Board of Health meeting held on January 19, 2012 had previously been distributed to Board members for review and approval.

On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted to approve, as presented, the minutes of the meeting held on January 19, 2012. The vote was 3-0-1. Dr. Davis abstained from the vote because she had not attended that meeting.

The minutes of the Board of Health meeting held on February 2, 2012 had previously been distributed to Board members for review and approval.

On a motion by Dr. Schneider and seconded by Dr. Davis, the Board of Health voted to approve, as presented, the minutes of the meeting held on February 2, 2012. The vote was 3-0-1. Attorney Taylor abstained because he was not present at that meeting.

Agenda Item 8 – Review Correspondence / Old and New Business

8 – 1 – A letter from Seacrest Village LLC dated February 5, 2012 had previously been distributed to Board members for review and discussion. Mr. Canning reported that because the system failed they have requested an extension to December 31, 2012 to repair the septic system. The owner anticipates doing major work at the property and would be installing a new system. The property is currently vacant.

On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted in the matter of Seacrest Village LLC to grant an extension to December 31, 2012 to come into compliance with the Order to Repair. The vote was 4-0-0.

8 – 2 – A letter from George Heufelder dated February 1, 2012 reporting on the Soil Air System at the Second District Courthouse had previously been distributed to Board members for review and discussion. Mr. Canning reported that the new system has improved the leaching capacity of the septic system to an acceptable level.

8 – 3 – A memo from Myra Suchenicz regarding the May 7, 2012 Annual and Special Town Meeting Warrants had previously been distributed to Board members for review and discussion.

8 – 4 – A letter from the Orleans Health Department to Daniels Recycling Company, Inc. dated January 19, 2012 and Inspection Report dated January 17, 2012 had previously been distributed to Board members for review and discussion. This had been discussed at the January 19, 2012 meeting.

8 – 5 – A memo from Bob Collett, Director of the Cape Cod Regional Tobacco Control Program, dated January 30, 2012 had previously been distributed to Board members for review and discussion. Mr. Canning reported that the Cape Cod Regional Tobacco Control Program is proposing to discuss banning to-

bacco product sales at health agencies such as pharmacies. Board members discussed that they would like to have a discussion with the Tobacco Control Program, but also noted that a person could always get tobacco products at a convenience store.

On a motion by Attorney Taylor and seconded by Dr. Davis, the Board of Health voted to ask Mr. Collett, Director of the Cape Cod Regional Tobacco Control Program to come to a future meeting. The vote was 4-0-0.

Agenda Item 9 – Health Agent’s Report

Temporary Food Permit

Orleans Elementary School has applied for a Temporary Food Permit for a Curator’s Reception at the Marion Crane Gallery at Snow Library at a date to determined, either March 9 or 16, 2012. They will be serving store-bought cookies, muffins, store-bought sandwich plates, bottled soda, juices and water. Sandwiches will be from a local grocery store and will be picked up immediately before the function. The reception will last two hours so they will be using the Time as a Public Health Control Guidelines.

On a motion by Dr. Davis and seconded by Dr. Schneider, the Board of Health voted to approve a Temporary Food Permit for a Curator’s Reception at the Marion Crane Gallery at Snow Library with a certain date to be determined. The vote was 4-0-0.

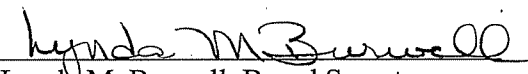
7 Prence Lane

Mr. Canning reported that the new septic system has been installed and is functioning. The Health Department has not yet received the paperwork to issue a Certificate of Compliance but he expects it shortly.

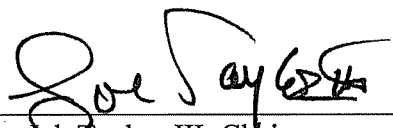
Agenda Item 10 – Adjournment

On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted to adjourn this meeting at 2:54 p.m. The vote was 4-0-0.

Respectfully submitted,

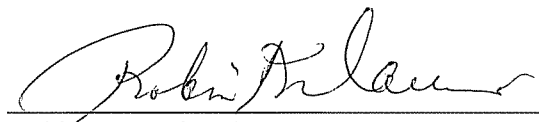

Lynda M. Burwell, Board Secretary

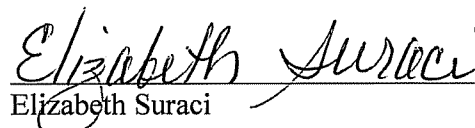
ORLEANS BOARD OF HEALTH


Attorney Joe Taylor, III; Chairman


Jan Schneider, M.D.

Excused
Augusta F. McKusick, Vice Chairman


Robin K. Davis, Ph.D.


Elizabeth Suraci

March 1, 2012
Date Approved/Accepted

**DOCUMENTS PROVIDED FOR THE February 16, 2012
MEETING OF THE ORLEANS BOARD OF HEALTH**

Agenda Item 2 – Hearing Request – 30 Viking Road

- 2 – 1 – Letter/Request for Hearing from Michael Bosley dated February 9, 2012
- 2 – 2 – OHD Letter to Paul & Mary Bosley Living Trust dated August 16, 2011

Agenda Item 3 – Hearing Request – 4 Cheney Road

- 3 – 1 – Letter from Dr. Nancy Golden dated January 24, 2012
- 3 – 2 – OHD Letter to Dr. Nancy L. Golden dated January 19, 2012
- 3 – 3 – OHD Letter to Dr. Nancy L. Golden dated September 27, 2011

Agenda Item 4 – Request for Permit – Carla's

- 4 – 1 – Food Service Establishment Permit Application dated February 6, 2012

Agenda Item 5 – Approval Request – 121 Route 6A

- 5 – 1 – OHD Letter to Robin Sullivan & Dylan Stanton dated January 27, 2012
- 5 – 2 – JM O'Reilly Letter to OBOH dated February 13, 2012
- 5 – 3 – Site Plan dated March 20, 1996

Agenda Item 6 – Hearing Request – 59 Finlay Road

- 6 – 1 – OHD Letter to Menard and Fettig dated January 25, 2012
- 6 – 2 – Excerpt of BOH Meeting Minutes of October 20, 2011
- 6 – 3 – OHD Letter to Menard and Fettig dated September 29, 2011

Agenda Item 7 – Approve Minutes

- 7 – 1 – OBOH Minutes of Meeting held on January 19, 2012
- 7 – 2 – OBOH Minutes of Meeting held on February 2, 2012

Agenda Item 8 – Review Correspondence and Old/New Business

- 8 – 1 – Letter dated February 5, 2012 from Seacrest Village LLC
- 8 – 2 – Letter dated February 1, 2012 from George Heufelder, Barnstable County Dept. of Health and Environment
- 8 – 3 – Suchenicz Memo dated January 27, 2012 – Annual and Special Town Meeting Warrants
- 8 – 4 – OHD Letter to Daniels Recycling Company, Inc. dated January 19, 2012
- 8 – 5 – Memo from Bob Collett dated January 30, 2012 re: Youth Access to Tobacco regulations