

**TOWN OF ORLEANS – BOARD OF HEALTH  
MINUTES OF MEETING**

**March 27, 2012**

ORLEANS TOWN CLERK

*K. Darling, ASST*

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The Board of Health convened its meeting at 2:00 p.m. on Tuesday, March 27, 2012 in the Skaket Meeting Room of the Orleans Town Hall.

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

Excused: Vice Chair Augusta McKusick, Robin Davis, Ph.D.

**Agenda Item 1 – Public or Press**

There was no one present for Public or Press.

**Agenda Item 2 – Discussion – CVEC Solar Project – Orleans Landfill Site**

Mr. John Jannell, Conservation Administrator and Staff Planner discussed use of the Orleans landfill as a site to locate a ground-mounted photovoltaic solar panel field. He is Orleans' representative to the Cape and Vineyard Electric Cooperative (CVEC). Mr. Jannell explained the competitive process to choose a developer and noted that one has been selected. This proposal will be presented to Town Meeting in May for general authorization. Mr. Jannell distributed a schematic of the proposed solar field at the landfill. (*Exhibit 2-1*). The proposed plan would use 3.5 acres at the landfill for 1,980 panels. The electricity produced could save the town approximately \$39,000 per year. CVEC has been successful with permitting from MDEP for five post closure landfill permits. This proposal will be submitted to the Board of Selectmen shortly.

Mr. Canning noted that any construction or alteration to the landfill needs Board of Health approval. In a formal review the Board should be concerned with the cap integrity, possible soil erosion above the cap from rain, the panels may block sunlight causing vegetation to die off, and ensure that the location of the panels won't interfere with the existing gas collection system.

The Chairman thanked Mr. Jannell for information early in its development. Board members inquired about the up-front cost for the installation. Mr. Jannell explained that he had not been provided with that information but he had been provided the unit cost of electricity which he outlined to the Board. In response, he confirmed that the Town is still considering the watershed location as well, and that the Board of Water and Sewer Commissioners have expressed their support of this project should it be located on their property.

Mr. Canning asked Mr. Jannell to clarify that although the cost of installation is not known, would there be a cost to the Town? Mr. Jannell responded that all cost would be borne by CVEC and the developer.

Dr. Schneider summarized that at no expense to the Town, use of useless space is potentially going to generate a savings of electricity costs for the Town of approximately \$39,000 per year.

**Agenda Item 3 – Variance Request – Namequoit Sailing Association**

Mr. David Quincy, current Commodore of the Namequoit Sailing Association was present for this hearing. Attorney Taylor summarized that the NSA planned to have no preregistration or collection of money until the day of enrollment, which Mr. Quincy affirmed.

Mr. Canning discussed the proposed changes in procedures and enrollment on a drop-in basis. He then outlined the exemption in the Minimum Standards for Recreational Camps for Children. If the NSA

plans to operate on a drop-in basis it will not need to be licensed as a camp by the Board of Health. This is what the code allows and NSA will be allowed to operate under this basis.

Dr. Schneider inquired about children showing up and not being able to participate to which Mr. Quincy responded that is not likely to happen.

Mr. Quincy expressed his appreciation to Mr. Canning and Ms. Woods for their help in this matter.

#### **Agenda Item 4 – Discussion – Farmers’ Market**

Gretel Norgeot, president and general manager of the Orleans Farmers’ Market, Karen Moore, a vendor, and another vendor in the audience were present for this hearing.

Mr. Canning reiterated the concerns of the Board of Health over the past few years regarding the products sold at the Farmers’ Market. The Board of Health asked that Mrs. Suraci, Ms. Woods, and Mr. Canning review and prepare new Farmers’ Market Regulations. He discussed the two drafts dated March 15, 2012 of the Farmers’ Market Regulations, and the Farmers’ Market Policy.

Mr. Canning noted that vendors of whole food products such as fresh produce, unprocessed honey, eggs, and maple syrup will be exempt from licensing under the Agricultural exemption. However, he discussed the processed foods that are made in a licensed kitchen and that those vendors should be licensed individually as retail sellers.

Other products that must be addressed with permits if necessary include food preparation on site and food sampling on site, non-food items, issues with live animals for sale, lobsters, beer and wine, and tobacco products.

- A prepackaged product produced in a licensed kitchen and retailed at the Farmers’ Market – there should be a new category – Farmers’ Market Retail Sales License for one season which would allow sampling as well as sales of the product.
- Sampling of a product, portioning, or preparation on site would require a Temporary Food Establishment license.
- Non-food items should be reviewed considering any conflict with storage, display, or sale of food products on site.
- The sale of lobster and shellfish would have to follow the policies of the Mass. Department of Public Health, Department of Marine Fisheries, and Department of Agriculture.
- The sale of live animals at the Farmers’ Market should be reviewed considering any conflict with storage, display, or sale of food products on site.
- The Department of Agriculture recently established a policy approving the sale of wine at Farmers’ Markets. However, this should be under the purview of the Board of Selectmen and the Department of Agriculture to determine whether wine can be sold at the Orleans Farmers’ Market. The Board of Health would not be involved.

Mr. Canning explained that the committee thought it would be important to have a Responsible Person to meet with the Board of Health at the beginning of every season. This person should also be a Certified Food Protection Manager as well as certified in Allergy Awareness. The Responsible Person would approve potential vendors before coming to the Board of Health for approval.

Attorney Taylor discussed the need to decide when to implement the new regulations which still needs work and may not be completed before the Farmers’ Market opening. He suggested that they operate this year conforming to the policy as close as possible.

Mrs. Suraci discussed that there is nothing definite regarding the fee structure for the upcoming season.

Mr. Canning explained that the Mass. Department of Public Health recommends that each vendor should be licensed, however each town should consider the hours of operation of a Farmers' Market while setting fees. Currently there is a fee of \$25 for administrative filing. The Board of Health would need to hold a hearing before setting a new fee schedule. He recommended that there be no charge this year until the fees are determined for future seasons.

Dr. Schneider questioned the effect of competition with retail stores in town selling non-food items to which Mr. Canning responded that non-food items do not come under the jurisdiction of the Board of Health. Regarding licensing and competition, the Board should be concerned with the regulatory structure followed. Orleans follows the state and federal food codes concerning the sale of food products in an open market.

Mrs. Suraci noted that the Board would not be regulating non-food items and will not be dealing with tobacco products. Having live animals at the Farmers' Market would cause dust which might contaminate the food products being sold. Regarding wool and wool products, spun wool is one issue, but unwashed wool fleece is a concern.

Mrs. Norgeot discussed the issue of cross contamination of unwashed wool and food. Also, they don't allow crafts. There is a Market Committee that inspects all farms and gardens prior to inclusion as a vendor in the Farmers' Market. She agrees that the new Policy and Regulations are well written.

Attorney Taylor suggested holding a public hearing on April 19, 2012 to take comments on the new Farmers' Market Regulations. Mrs. Norgeot will have list of vendors to be approved for this year's Farmers' Market at that meeting.

Mr. Canning reviewed that the public hearing would be to consider the Farmers' Market Retail Sales permit with a proposed fee of \$25 per vendor. The Farmers' Market currently is not licensed but would need a Certificate of Approval from the Board of Health and each vendor would be licensed individually.

Mr. Canning discussed sampling. Selling a refreshment out of a cooler/dispenser might require a Temporary Food Service permit, while jellies prepackaged for sampling, if prepared in a licensed kitchen, would be okay. Mrs. Suraci discussed that sampling of a product prepared in a licensed kitchen is not portioning on site. Attorney Taylor expressed concern about dispensing a product from a container. Mrs. Norgeot noted that it has been done in the past with no issues. Mr. Canning explained that it would have to be varied under a Retail Food Permit. Attorney Taylor was concerned about the fee to be charged for it to be allowed.

### **Agenda Item 5 – Approve Minutes**

The minutes of the Board of Health meeting held on March 1, 2012 had previously been distributed to Board members for review and approval.

**On a motion by Dr. Schneider and seconded by Mrs. Suraci, the Board of Health voted to approve the minutes of the meeting held on March 1, 2012, as presented. The vote was 3-0-0.**

### **Agenda Item 6 – Review Correspondence / Old and New Business**

6 – 1 – A Request for Waiver for Difficulty in Locating Components for 20 South Orleans Road (Saltwater Grill) had previously been distributed to Board members for review and discussion. Mr. Canning reported that the inspector has looked with a camera into the grease trap. He suggested that the owner may want to expose the inlet cover to make it easier to clean the grease trap in the future.

**On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted in the matter of 20 South Orleans Road to grant the request and include in our letter granting it a recommendation about the cover as described by Mr. Canning that they may want to make it easier to clean. The vote was 3-0-0.**

6 – 2 – A letter from the Orleans Health Department to George Albert dated March 8, 2012 had previously been distributed to Board members for review and discussion.

6 – 3 – A letter from the Mass. Department of Agricultural Resources regarding Nomination of Inspector of Animals had previously been distributed to Board members for review and discussion.

**On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted to nominate reappointment of Duane Boucher as the Inspector of Animals for the Town of Orleans. Robert Canning and Erika Woods were reappointed as alternate Inspectors of Animals. The vote was 3-0-0.**

6 – 4 – A letter from the Orleans Health Department to Paul Daniels of Daniels Recycling Company, Inc. regarding the February 27, 2012 Inspection Report had previously been distributed to Board members for review and discussion.

6 – 5 – The Orleans Health Department Inspection Report dated February 27, 2012 for Daniels Recycling Company, Inc. had previously been distributed to Board members for review and discussion. Mr. Canning reported that all in items were in compliance with the exception of Total Aggregate and the Health Department is still waiting for inspection reports from 2011. Attorney Taylor congratulated DRCI on this good report.

6 – 6 – The meeting minutes of the Orleans Brewster Eastham Groundwater Protection District Board of Managers' Meeting dated February 15, 2012 had previously been distributed to Board members for review and discussion.

6 – 7 – A letter from Bev Carney dated February 29, 2012 and her presentation to the Pleasant Bay Alliance regarding use of fertilizer had previously been distributed to Board members for review and discussion.

## **Agenda Item 7 – Health Agent's Report**

### ***Licensing of Food Establishments***

#### **Nauset Grill**

Matthew Barron had applied for new Food Service Establishment and Retail Food Licenses for the Nauset Grill (formerly Woodies) at 56 Main Street. Mr. Canning recommended that these licenses be granted contingent upon final approval of the Health Department.

**On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted in the matter of the Nauset Grill to grant the Food Service Establishment and Retail Food Licenses contingent upon final approval of the Health Department. The vote was 3-0-0.**

#### **Change of Ownership**

##### **Hunan Gourmet**

Bi Yan Chen (new owner of the Hunan Gourmet) had applied for a new Food Service Establishment License for the Hunan Gourmet at 225 Cranberry Highway. The location and number of seats will remain the same. Mr. Canning recommended that this license be granted contingent upon final approval of the Health Department.

**On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted in the matter of the Hunan Gourmet to grant a Food Service Establishment License to Bi Yan Chen contingent upon final approval of the Health Department. The vote was 3-0-0.**

***Septage Collection and Transportation - New License***

**Neighborhood Waste Water Services, Inc.**

Todd McMahan, located at 350 Rte 28, West Yarmouth, had applied for a new Septic Collection and Transportation License.

**On a motion by Dr. Schneider and seconded by Mrs. Suraci, the Board of Health voted in the matter of the Neighborhood Waste Water Services, Inc. to grant a Septage Collection and Transportation License. The vote was 3-0-0.**

***Updates***

**7 Prence Lane** – A Certificate of Compliance was issued on March 16, 2012.

**7 Arena Drive** – Unit A was vacated on March 20, 2012.

**78 Old Colony Way, Danforth II Unit A** – A Final Inspection of repairs was conducted on March 7, 2012. The Order was satisfactorily addressed.

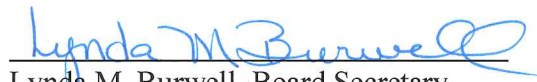
**Rabies Clinic**

A rabies clinic was held at the Orleans Animal Hospital on March 24, 2012 where 70 animals (dogs and cats, no ferrets) were vaccinated. Mr. Canning thanked Dr. Bohan and Orleans Animal Hospital. The hospital also offered identification chips for dogs and cats at this clinic.

**Agenda Item 8 – Adjournment**

**On a motion by Attorney Taylor and seconded by Mrs. Suraci, the Board of Health voted to adjourn this meeting at 2:56 p.m. The vote was 3-0-0.**

Respectfully submitted,

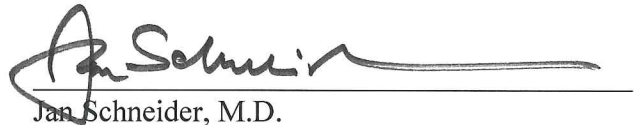


Lynda M. Burwell, Board Secretary

**ORLEANS BOARD OF HEALTH**



Attorney Job Taylor, III, Chairman



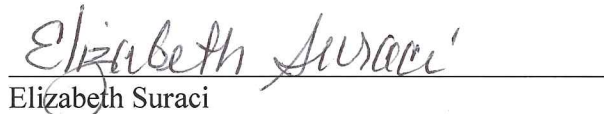
Jan Schneider, M.D.

Excused

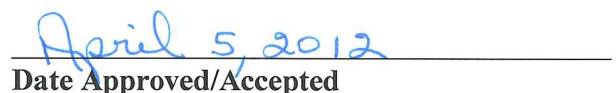
Augusta F. McKusick, Vice Chairman

Excused

Robin K. Davis, Ph.D.



Elizabeth Suraci



Date Approved/Accepted



**DOCUMENTS PROVIDED FOR THE March 27, 2012  
MEETING OF THE ORLEANS BOARD OF HEALTH**

**Agenda Item 2 – Discussion – CVEC Solar Project – Orleans Landfill Site**

2 – 1 – Memo from John Jannell to OBOH dated March 20, 2012

2 – 2 – Excerpt of Orleans Solid Waste Facility Regulations – 185-14 Operational Requirements

Exhibit 2 – 1 – Schematic of proposed Orleans Landfill Solar Layout

**Agenda Item 3 – Variance Request – Namequoit Sailing Association**

3 – 1 – Letter from David A. Quincy, Commodore, to OHD dated March 6, 2012

3 – 2 – 105 CMR 430.000: Minimum Standards for Recreational Camps for Children

**Agenda Item 4 – Discussion – Orleans Farmers' Market**

4 – 1 – OBOH Farmers' Market Regulations – Draft dated March 15, 2012

4 – 2 – OBOH Farmers' Market Policy – Draft dated March 15, 2012

**Agenda Item 5 – Approve Minutes**

5 – 1 – OBOH Minutes of Meeting held on March 1, 2012

**Agenda Item 6 – Review Correspondence and Old/New Business**

6 – 1 – A Request for Waiver for Difficulty in Locating Components at 20 South Orleans Road (Saltwater Grill) dated March 15, 2012

6 – 2 – OHD letter to George Albert dated March 8, 2012

6 – 3 – A Mass. Department of Agricultural Resources letter dated March 7, 2012

6 – 4 – OHD letter to Paul Daniels dated March 1, 2012 regarding the February 27, 2012 Inspection Report

6 – 5 – OHD Inspection Report dated February 27, 2012

6 – 6 – Orleans Brewster Eastham Groundwater Protection District Board of Managers' Meeting dated February 15, 2012

6 – 7 – Bev Carney letter dated February 29, 2012 and her presentation to the Pleasant Bay Alliance

**Agenda Item 7 – Health Agent's Report**