

TOWN OF ORLEANS – BOARD OF HEALTH MINUTES OF MEETING

May 17, 2012

The Board of Health convened its meeting at 2:05 p.m. on Thursday, May 17, 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, Finance Committee Liaison Dale Fuller, and Board of Selectmen Liaison Susan Christie

Excused: Robin Davis, Ph.D.

Agenda Item 1 – Board of Health Reorganization and Appointments

This Agenda item could not be completed because not all Board of Health members were present at this meeting.

Agenda Item 2 – Public or Press

There was no one present for Public or Press.

Agenda Item 3 – Discussion – White's Catering

Mr. Robert Oldsman of White's Catering located at 12 Commerce Road in Orleans was present for this hearing. He explained that his catering business is in its fifth year in this particular building. He requested an extension to the order to remedy the floor situation and noted that the records show that their floors have been clean in the past during inspections. He explained that the original floors are concrete with floor drains and he uses a commercial solution to scrub and hose them down with hot water. However, the paint is peeling off the floors and will continue to peel. He had been hoping to tile the floors but that is impossible because of the floor drains and the slope of the floors toward the drains. Also, he would not have time to do the floor now because they are starting the busy season this month. Mr. Oldsman proposed that he continue to clean the floors in the same manner for the rest of the season; then in the fall scrape them down and use an epoxy paint that would meet the criteria for cleaning the floors.

Mr. Canning explained that the Health Department had requested repair of the floor last season. However, the floors have been maintained clean upon inspections. The Code states that floors must be smooth and impervious, and easily cleaned. Concrete floors present an ongoing maintenance issue, but there are other types of floors that could be poured. He asked that if the Board approved this request that it be conditioned upon review next year prior to the permit being issued.

Board members discussed whether there is enough heat in the building for an epoxy floor to cure, to which Mr. Oldsman explained that there is ceiling heat and he would plan to complete the floor before it gets too cold. Board members also discussed that the person responsible for meeting the code is the person/business receiving the permit, not the landlord. They also discussed the presence of a floor drain and whether it is a sanitary floor drain or an industrial floor drain.

On a motion by Dr. Schneider and seconded by Mrs. McKusick, the Board of Health voted in the matter of 12 Commerce Road, White's Catering. I move that we do approve the extension for this coming season recognizing that there has been a problem with the floor for awhile; and that Mr. Oldsman, as the proprietor of White's Catering, ensure that before he opens or requests a permit to open next season, that the floor be brought up to Code. The vote was 4-0-0.

Agenda Item 4 – Discussion – Cape Cod Regional Tobacco Control Program

Mr. Robert Collett, Director of the Barnstable County Tobacco Control Program, and Judith Perkindoth who works with him on the Cape, was present for this discussion.

Ms. Perkindoth explained that she works in public education and promotes education of people, especially the youth. Mr. Collett primarily has been serving Cape communities in upgrading the youth access tobacco policies and regulations.

Mr. Collett distributed an updated Sample Regulations checklist dated April 13, 2012, (*Exhibit 4-1*) and Draft Regulations (*Exhibit 4-2*) to replace Items 4-1 and 4-2 of the Board of Health Packet for this meeting. He discussed the support system available through Barnstable County and reviewed the checklist for policy decisions. The purpose of the proposed draft regulations is to limit the number of retailers permitted to sell tobacco products by capping the number of permits available. It would eliminate tobacco sales at pharmacies, health care facilities, and educational institutions. Mr. Canning questioned whether drug stores located in grocery stores would be prevented from selling tobacco products, to which Mr. Collett responded that they would also be included and that this new tobacco policy is intended to mimic limited alcohol sales in towns. This proposed policy would eliminate the sale of single, cheap cigars, as well as banning blunt wraps used to roll tobacco or marijuana for smoking; also banning roll-your-own machines that allow an individual to roll his own bulk tobacco cheaper than buying a carton of cigarettes. Many communities are making the machines illegal. Mr. Collett also discussed revision of the fining structures to not allow warnings and establishment of a tolling period for violations. Mr. Canning explained how the Health Department uses compliance checks to monitor and control the number of violations allowed by a proprietor prior to suspension of a license. Mr. Collett reviewed the change in Suspensions Language from “may” to “shall” for greater strength in enforcement.

Mr. Canning inquired whether electronic tobacco items are included in this policy and whether these electronic nicotine delivery devices can be harmful to others in close proximity. Ms. Perkindoth explained the item and how it is used; noting that it is very dangerous, containing a substance used in anti-freeze. Kids are buying them now for \$9.95 and using them for marijuana. Mr. Collett explained that electronic nicotine delivery devices are now being banned in Brewster and Bourne because currently there is no age restriction to their sale. In addition, Ms. Perkindoth noted that they are marketed as a smoking cessation assist.

Dr. Schneider asked if there has been a reduction in the number of youth using tobacco products to which Mr. Collett responded that the number of people using tobacco products has definitely reduced. However, use of alternative nicotine products has increased.

Ms. Perkindoth explained and showed several alternative nicotine products. She also discussed health education in the schools, but noted that budget cuts have eliminated most school health education staff.

Attorney Taylor expressed appreciation to Mr. Collett and Ms. Perkindoth for their presentation. Mr. Canning suggested that a Board member and someone from the Health Department staff review and propose a new policy “Restricting the Sale and Use of Tobacco Products and Nicotine Delivery Products”.

Agenda Item 5 – Approve Minutes

The minutes of the Board of Health meeting held on May 3, 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 May 3, 2012 as presented. The vote was 4-0-0.

Agenda Item 6 – Review Correspondence / Old and New Business

6 – 1 – A Request for Waiver for Difficulty in Locating Components during a septic system inspection dated May 4, 2012 for 65 Gibson Road had previously been distributed to Board members for review and dis-

cussion. Mr. Canning reported that the distribution box is located under a large tree and the inlet cover to the septic tank could not be built up to six inches below grade because of the presence of an irrigation line across it. The inspector was able to ensure that the distribution box worked properly and opened the cover of the tank and inspected it.

On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted in the matter of 65 Gibson Road to grant the waiver. The vote was 4-0-0.

6 – 2 – A Request for Waiver for Difficulty in Locating Components during a septic system inspection dated May 14, 2012 for 12 Meg's Lane had previously been distributed to Board members for review and discussion. Mr. Canning reported that the distribution box could not be located but the inspector was able to snake its location and found that it is located six feet below grade and fifty-five feet from the edge of a lake. Using that information the inspector determined that groundwater is the same level as the lake and that was used for calculation of the groundwater below the leaching pit.

On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted in the matter of 12 Meg's Lane to grant the waiver to expose the distribution box. The vote was 4-0-0.

6 – 3 – A Request for Waiver for Difficulty in Locating Components during a septic system inspection dated May 20, 2012 for 27 Baywood Drive had previously been distributed to Board members for review and discussion. Mr. Canning reported that the distribution box is located under a deck. David Quinn (also present for this discussion) confirmed an uninterrupted flow of sewage from the septic tank to the leaching pit.

On a motion by Dr. Schneider and seconded by Mrs. Suraci, the Board of Health voted in the matter of 27 Baywood Drive to grant the waiver to not expose the distribution box. The vote was 4-0-0.

6 – 4 – A Request for Waiver for Difficulty in Locating Components during a septic system inspection dated May 7, 2012 for 15 Rayber Road had previously been distributed to Board members for review and discussion. Mr. Canning reported that the distribution box and septic tank outlet cover are located under a paved driveway. However, the inspector was able to observe the leaching facility as well as the inlet tee of the septic tank from the inlet cover.

On a motion by Mrs. McKusick and seconded by Mrs. Suraci, the Board of Health voted to grant the waiver for 15 Rayber Road. The vote was 4-0-0.

Dr. Schneider discussed the recent rash of structures being built over septic components. Mr. Canning explained the process of an owner obtaining a building permit which requires a plan showing septic components; however he agreed that it is a problem and could be a greater problem in the future if components disintegrate and need replacing. Dr. Schneider suggested that there be some educational material for new homeowners not familiar with septic systems.

6 – 5 – A request from the 4th of July Committee to waive the fee at the transfer station so Nauset Disposal can dispose of the trash from the fireworks on July 2nd and from the 4th of July parade on July 4th had previously been distributed to Board members for review and discussion.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of the request by the 4th of July Committee to waive the required fee for Nauset Disposal to dispose of the trash from the fireworks on July 2nd and from the 4th of July parade on July 4th. The vote was 4-0-0.

6 – 6 – A Request for a Variance for Enterprise Rent-A-Car located at 25 Canal Road dated May 4, 2012 had previously been distributed to Board members for review and discussion. Mr. Canning reported that they are petitioning a variance from the State to the requirement for an oil separator to handle the water from washing rental cars. Mr. J Gillis, agent for Enterprise, informed Mr. Canning that they had already received the variance from the State. He suggested that the Board inform Mr. Gillis that they had reviewed this request and that there are environmental concerns because of bordering wetlands and the Board wants

to be informed of any action taken by the facility. Board members agreed and Mr. Canning will draft a letter for their review.

6 – 7 – The Orleans, Brewster, Eastham Groundwater Protection District Board of Managers meeting minutes of March 8, 2012 had previously been distributed to Board members for review and discussion.

6 – 8 – The Orleans, Brewster, Eastham Groundwater Protection District Board of Managers meeting minutes of April 6, 2012 had previously been distributed to Board members for review and discussion.

6 – 9 – A letter to Daniels Recycling Company, Inc. from the Health Agent dated May 4, 2012 had previously been distributed to Board members for review and discussion. Mr. Canning reported that the State now requires only quarterly reports from DRCI; therefore, the Board of Health updates will be quarterly.

6 – 10 – A memo from the Orleans Agricultural Advisory Committee dated May 2, 2012 had previously been distributed to Board members for review and discussion.

Agenda Item 7 – Health Agent’s Report

Licensing/Permits

Local Scoop

Mr. Canning reported that Mary DeBartolo, owner of the Local Scoop located at 34 Route 6A had requested a Food Service Permit and a Frozen Desert Manufacturer and Retail License.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of the Local Scoop, 34 Route 6A, to grant approval pending final inspection by the Health Department. The vote was 4-0-0.

Parsonage Inn

Mr. Canning reported that the Parsonage Inn, owned by Jo-Anne and Richard Hoad (new owners), had requested a Limited Breakfast License. This is a Bed and Breakfast located at 202 Main Street.

On a motion by Mrs. Suraci and seconded by Dr. Schneider, the Board of Health voted in the matter of the Parsonage Inn to grant them a Limited Breakfast License, subject to final inspection by the Health Department. The vote was 4-0-0.

Farmers’ Market Retail Food Permits

The Optimal Kitchen, owned by Heather Bailey, will be offering muffins, scones, granola bars, chocolates, fruit vinegar, and iced tea as discussed at the April 19, 2012 Board of Health meeting requiring a waiver for a Temporary Food Permit as long as it is made in a licensed kitchen.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of The Optimal Kitchen to grant them a Farmers’ Market Retail Food Permit and a waiver for the iced tea. The vote was 4-0-0.

The Sea Turtle Farm, owned by Michelle Koch, will be offering pies, cookies, muffins, pastry bars, lemonade, iced tea (waiver requested) and proposing warm tea.

On a motion by Mrs. McKusick and seconded by Attorney Taylor, the Board of Health voted to grant a Farmers’ Market Retail Food Permit to Sea Turtle Farm and a waiver to serve warm and iced teas under the conditions previously established. The vote was 4-0-0.

Little Bay Jams, owned by Tyler and Anna Keyes, will be offering jams, jellies, marmalades, and spreads.

On a motion by Mrs. McKusick and seconded by Mrs. Suraci, the Board of Health voted in the matter of Little Bay Jams to grant them a Farmers’ Market Retail Food Permit. The vote was 4-0-0.

Seaside Studio and Garden, owned by Joan Hitchcock, will be offering breads, muffins, cookies, pies, and dessert squares.

On a motion by Mrs. Suraci and seconded by Dr. Schneider, the Board of Health voted in the matter of Seaside Studio and Garden to grant them a Farmers' Market Retail Food Permit. The vote was 4-0-0.

Flora Serendipity, owned by Karen Moore, will be offering breads, biscuits, cookies, a vinny drink, (presented at the April 19, 2012 Board of Health meeting) and requested a waiver for a Temporary Food Permit for hot mulled cider.

On a motion by Dr. Schneider and seconded by Mrs. Suraci, the Board of Health voted to grant a Farmers' Market Retail Food Permit to Flora Serendipity and a waiver for a Temporary Food Permit for hot mulled cider. The vote was 4-0-0.

Cape Cod Cooperative Extension Service, represented by Kimberly Concra, requested a Farmers' Market Retail Food Permit for cooking demonstrations. The food prepared at the Farmers' Market will not be shared with the public. A licensed kitchen will prepare the same food prior to the event and package it in the licensed kitchen for sampling at the Farmers Market.

On a motion by Dr. Schneider and seconded by Mrs. Suraci, the Board of Health voted to grant a Farmers' Market Retail Food Permit to the Cape Cod Cooperative Extension Service. The vote was 4-0-0.

Mrs. McKusick confirmed for the record that all of the previously granted Farmers' Market Retail Food Permits and waivers for Temporary Food Permits are only to be allowed at the Orleans Farmers' Market, and they will expire at the end of the season on November 17, 2012.

Orleans Community Partnership

Mr. Canning reported that the Orleans Community Partnership, represented by Steve Bornemeier, had requested a Temporary Food Service Permit for the Streetscape Celebration on May 16, 2012 from 4:30 p.m. to 6:30 p.m. They served prepackaged snacks, bottled water and refreshments. Mr. Canning requested that the Board of Health ratify issuance of this Permit.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of the Orleans Community Partnership to ratify a previously-approved Temporary Food Service Permit for a Streetscape Celebration on May 16, 2012 from 4:30 p.m. to 6:30 p.m. The vote was 4-0-0.

Camps

Cape Cod Lighthouse Charter School – Recreational Camp for Children

Mr. Canning reported that the Cape Cod Lighthouse Charter School had requested a permit to operate a Trip Camp from June 25, 2012 through August 17, 2012. The Camp Directors are Brian Bates and Tony Williams. They use the Cape Cod Lighthouse Charter School only as a base of operations each day.

On a motion by Mrs. Suraci and seconded by Dr. Schneider, the Board of Health voted in the matter of the Cape Cod Lighthouse Charter School to grant them a permit to operate a Trip Camp from June 25, 2012 through August 17, 2012. This approval is subject to Health Department final review. The vote was 4-0-0.

Updates

Daniels Recycling Company, Inc.

At the last meeting Mr. Canning informed the Board of Health that DRCI had communicated with the Health Department that the bridge construction was impeding the hauling of C&D and recyclable material

from their Orleans facility to an off-Cape facility. DRCI, as spelled out in its Contingency Plan, notified the Health Department of this occurrence. They also stated that they will limit the amount of material coming into the Orleans facility to no more than the material being hauled out of the facility. On May 16, 2012 the Health Department conducted a partial inspection at DRCI to observe the actual amount of material accumulated on site. At the time of the inspection there was approximately 906 cubic yards of material inside the building. This is down from the 1,325 cubic yards observed on April 24th. Management at DRCI has been communicating with the Health Department on a regular basis.

Permit Extension Act

Mr. Canning distributed a letter dated and received May 17, 2012 from Attorney Michael Ford, Town Counsel, (*Exhibit 7-1*) regarding the recently enacted Permit Extension Act and how it affects the Orleans Board of Health Nutrient Management Regulations – Transition Rules.

Mr. Canning explained that Martin Rich (discussed at the previous meeting) has active permits obtained prior to the Nutrient Management Regulation effective date; therefore, his situation fell under the Transition Rules as long as he could get a Certificate of Compliance before the permit expired. Mr. Rich had inquired whether his permits had now been extended according to the Permit Extension Act.

After reviewing this inquiry, Attorney Ford opined that the Nutrient Management Regulations should be read as a complete regulation, understanding that as long as the septic permit is valid and Mr. Rich can obtain a Certificate of Compliance prior to its expiration, he should be able to apply for a Building Permit for which he has an active Disposal Works Construction permit.

Mr. Canning will write to property owners that have Disposal Works Construction permits to inform them that they have more time to complete their septic construction as allowed by the Permit Extension Act.

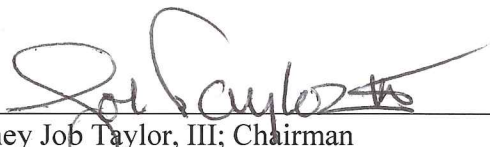
Agenda Item 8 – Adjournment


On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted to adjourn this meeting at 3:25 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

Excused
Robin K. Davis, Ph.D.

Elizabeth Suraci


Date Approved/Accepted

**DOCUMENTS PROVIDED FOR THE May 17, 2012
MEETING OF THE ORLEANS BOARD OF HEALTH**

Agenda Item 3 – Discussion/Extension Request – White’s Catering

3 – 1 – Letter from Bob Oldsman, White’s catering, dated May 14, 2012

3 – 2 – OHD Food Establishment Inspection Report dated May 14, 2012

Agenda Item 4 – Discussion – Cape Cod Regional Tobacco Control Program

4 – 1 – Sample Tobacco Control Programs

4 – 2 – OBOH Tobacco Control Regulations

Exhibit 4-1 – Sample Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products dated 4/13/12

Exhibit 4-2 – Draft Regulation of the (city/town) Board of Health Restricting the Sale of Tobacco Products and Nicotine Delivery Products

Agenda Item 5 – Approve Minutes

5 – 1 – OBOH Minutes of Meeting held on May 3, 2012

Agenda Item 6 – Review Correspondence and Old/New Business

6 – 1 – Request for Waiver for Difficulty in Locating Components dated May 4, 2012 – 65 Gibson Road

6 – 2 – Request for Waiver for Difficulty in Locating Components dated May 4, 2012 – 12 Megs Lane

6 – 3 – Request for Waiver for Difficulty in Locating Components dated April 20, 2012 – 27 Baywood Drive

6 – 4 – Request for Waiver for Difficulty in Locating Components dated May 7, 2012 – 15 Rayber Road

6 – 5 – Request from 4th of July Committee dated May 8, 2012

6 – 6 – Letter from ENPRO – Petition for Variance – 25 Canal Road dated May 4, 2012

6 – 7 – Orleans, Brewster, Eastham Groundwater Protection District Board of Managers Minutes of March 8, 2012

6 – 8 – Orleans, Brewster, Eastham Groundwater Protection District Board of Managers Minutes of April 6, 2012

6 – 9 – OHD letter to Daniels Recycling Company, Inc. dated May 4, 2012

6 – 10 – Agricultural Advisory Committee memo dated May 2, 2012

Agenda Item 7 – Health Agent’s Report

Exhibit 7-1 – Letter from Attorney Michael D. Ford, Town Counsel, dated May 17, 2012