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TOWN OF ORLEANS – BOARD OF HEALTH MINUTES OF MEETING

July 12, 2012

The Board of Health convened its meeting at 1:00 p.m. on Thursday, July 12, 2012 in the Nauset 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: Health Agent Robert Canning, Finance Committee Liaison Dale Fuller, and Board of Selectmen Liaison Susan Christie.

Agenda Item 1 – Public Hearing – Orleans Board of Health Regulations for the Sale and Use of Tobacco and Nicotine Delivery Products

Attorney Taylor opened the Public Hearing and explained the purpose and procedure to be followed to receive comments on the proposed Orleans Board of Health Regulations for the Sale and Use of Tobacco and Nicotine Delivery Products.

Mr. Canning read into the record the Public Hearing Notice previously published on July 6, 2012 in the Cape Codder.

The Orleans Board of Health will conduct a Public Hearing on Thursday, July 12, 2012, at 1:00 p.m. in the Nauset Meeting Room at the Orleans Town Hall to accept comments and consider adoption of Regulations for the Sale and Use of Tobacco and Nicotine Delivery Products. The key components of the Regulation are as follows:

- *The Regulations for the Sale and Use of Tobacco and Nicotine Delivery Products would replace the current Orleans Board of Health Tobacco Control Regulation.*
- *The Regulation prohibits smoking in enclosed public places, including workplaces and food establishments, as well as regulates the sale of tobacco and nicotine delivery products.*
- *The Regulation prohibits:*
 - *Smoking in the workplace*
 - *Smoking in public places*
 - *Smoking in food service establishments*
 - *Roll your own machines*
 - *The sale of blunt wraps*
 - *Free distribution and coupon redemption*
 - *Out of package sales*
 - *Self service displays*
 - *Vending machines dispensing tobacco and nicotine delivery products*
 - *Tobacco and nicotine delivery product sales to minors*
- *The Regulation also:*
 - *Includes the requirement for cessation signage at tobacco and nicotine delivery product retail stores*
 - *Includes signage requirement for nicotine delivery products*
 - *Requires compliance with MA DOR pricing*
 - *Contains a section on violations, fees, and penalties.*

Copies of the proposed regulations and fee schedule are available at the Orleans Health Depart-

ment and will be available at the hearing.

Written comments regarding the proposed amendments will be accepted, prior to the hearing, at the Health Department Office, 19 School Road, Orleans, MA 02653.

Mr. Canning then reviewed comments provided by Town Counsel following his review of the proposed regulation.

The following people had comments regarding the Orleans Board of Health Regulations for the Sale and Use of Tobacco and Nicotine Delivery Products:

Brenda Thayer, territory manager at Mobil on the Run, expressed concern about the portion of the new regulation that abolishes the sale of single-sell products priced below \$2.50. The issue is related more to adults looking for one cigar rather than a four-pack. Mr. Canning responded that these regulations are not prohibiting the sale of single cigars under \$2.50. It was not intended to be included in these regulations but was attached as an example of other regulations.

Robert Collette of the Barnstable County Tobacco Control Program noted that he has had an opportunity to review the proposed regulations. He questioned Town Counsel's comments regarding the definition of blunt wrap; i.e. that blunt wrap is a trade mark name that cannot be used. Mr. Collette introduced Cheryl Sivara, an attorney working with the Massachusetts Association of Health Boards who explained that the blunt wrap term was upheld by the Massachusetts Appeals Court. She noted that the definition used in the Orleans regulation is the same as upheld by the Appeals Court. Another issue raised by Town Counsel about the section which would require that an individual buying the establishment from another individual clear up any outstanding violations is exactly the same as requiring a municipal lien when purchasing a property. She also suggested that the section on second-hand smoke should be brought into compliance with the Smoke-Free Workplace law. Attorney Taylor agreed that there are some sections of the proposed regulations that need to be revised.

Mr. Collette noted that Harwich passed its new regulation in its entirety, and Brewster will be voting on July 17th to approve its proposed regulation on tobacco products. In response to a question about the sale of tobacco in drug stores and supermarkets Mrs. McKusick explained that these issues are on hold for later discussion with those concerned. Attorney Taylor noted that this is a significant issue for the Board, and it should be completed soon.

Attorney Sivara also explained that a provision in the recently-enacted Federal Transportation Bill includes that any owner of a roll-your-own machine is considered a manufacturer which will require payment of taxes, etc.

There being no further discussion or comments on the proposed Orleans Board of Health Regulations for the Sale and Use of Tobacco and Nicotine Delivery Products, Attorney Taylor declared the Public Hearing closed.

On a motion by Mrs. McKusick and seconded by Dr. Davis, the Board of Health voted to close the Public Hearing at 1:16 p.m. The vote was 5-0-0.

Mrs. McKusick suggested that the Board vote to accept the proposed regulation as Mr. Canning has incorporated changes from Town Counsel. However, Mr. Canning noted that he had made some other minor changes to the proposed regulation, and Attorney Sivara suggested she would incorporate Town Counsel's comments along with bringing the second-hand smoke wording into compliance with the Smoke-Free Workplace law; then she would email it to Town Counsel. Board members agreed to vote on the updated Orleans Board of Health Regulations for the Sale and Use of Tobacco and Nicotine Delivery Products at the next meeting.

Agenda Item 2 – Board of Health Reorganization and Appointments

Nominated by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted to elect Attorney Job Taylor to serve as Chairman of the Board of Health. There were no further nominations. The vote was 4-0-1 with Attorney Taylor abstaining.

Nominated by Dr. Schneider and seconded by Mrs. McKusick, the Board of Health voted to elect Mrs. Elizabeth Suraci to serve as Vice Chairman of the Board of Health. There were no further nominations. The vote was 4-0-1 with Mrs. Suraci abstaining.

Agenda Item 3 – Public or Press

There was no one present for Public or Press.

Because it was not yet 2:00 p.m., the advertised time for variance hearings, Attorney Taylor suggested that Mr. Canning proceed with Agenda Item 15.

Agenda Item 15 – Review Correspondence / Old and New Business

15 – 1 – A Request for Waiver for Difficulty in Locating Components during a septic system inspection dated July 3, 2012 for 92 Nickerson Road had previously been distributed to Board members for review and discussion. Mr. Canning reported that the distribution box could not be located on the site. There was no obstruction in flow to the leaching pits.

On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted in the matter of 92 Nickerson Road to waive the requirement to locate the distribution box. The vote was 5-0-0.

15 – 2 – A Request for Waiver for Difficulty in Locating Components during a septic system inspection dated July 2, 2012 for 30 O'Connor Road had previously been distributed to Board members for review and discussion. Mr. Canning reported that the distribution box could not be located and that there was no as-built plan on file in the Health Department. It would require excavation to expose the distribution box. There was no obstruction when water was introduced into the system.

On a motion by Dr. Schneider and seconded by Dr. Davis, the Board of Health voted in the matter of 30 O'Connor Road to waive the requirement to inspect the distribution box. The vote was 5-0-0.

15 – 3a – A letter from the Orleans Health Department to Daniels Recycling Company regarding the June 26, 2012 Inspection Report had previously been distributed to Board members for review and discussion. Mr. Canning reported that there were exceedances inside the building at the time of the inspection. They have been diverting waste away from the site; however they have had difficulty with vendors accepting their shipments.

15 – 3b – Attachment A outlining the Asbestos Inspection Protocol for Construction & Demolition Debris Processing and Construction and Demolition Debris Transfer Station Facilities had previously been distributed to Board members for review and discussion. Mr. Canning reported that DRCI will need to monitor the filtration filters for asbestos more frequently.

15 – 3c – Orleans Board of Health Construction & Demolition Facility Inspection Report dated June 26, 2012 had previously been distributed to Board members for review and discussion. This had been discussed under Item 15-3a.

Attorney Taylor noted that he is pleased with their cooperation but their numbers are horrible. Mrs. McKusick suggested prohibiting them from taking any more construction and demolition material until August 1st. Dr. Schneider noted that previously the problem was the bridge construction, now that it is fixed, summer traffic is the problem. Mr. Canning noted that the last inspection was much improved, but now the receiving vendors are presenting a problem for Daniels.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of Daniels Recycling Center that we disallow any further disposing of C&D material until August 1st because of the indications on June 26th, where there were 1155 cubic yards still in the building which is triple the allowed 400 cubic yards.

Board members discussed that the reason for the overage is that their vendors aren't accepting DRCI's processed material which causes a back up at DRCI. Mr. Canning questioned under what authority the Board of Health could close their operation. Mrs. McKusick reiterated that she is not closing the plant but prohibiting them from receiving any more material to be processed until they have reduced the amount waiting to be processed. Mr. Canning explained that the Board must hold a hearing to revoke the site assignment. Mrs. McKusick withdrew her motion at this point and requested that a Site Assignment Hearing be scheduled for August 16, 2012.

Attorney Taylor suggested that Mr. Canning notify Daniels that the Board would conduct that hearing unless they meet the criteria of their Site Assignment. Mr. Canning suggested that the Board hold a Show-Cause Hearing to determine whether they need a Site Assignment Hearing. Mrs. McKusick expressed her frustration over the situation that has continued for more than fifteen years, and Mrs. Suraci noted it is an ongoing problem.

Agenda Item 14 – Approve Minutes

The minutes of the Board of Health meeting held on June 7, 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 the minutes of the meeting held on June 7, 2012 as presented. The vote was 4-0-1. Mrs. Suraci was not present at that meeting.

Attorney Taylor then continued with Agenda Item 15.

15 – 4 – A letter from Mass. Department of Public Health to the Orleans Board of Selectmen regarding bathing beaches had previously been distributed to Board members for review and discussion. Mr. Canning noted that he had included in the Board's package a letter from the Bureau of Environmental Health regarding the licensing of beaches in Orleans. He had met with John Kelly regarding this letter and discussed the direction the town would like to proceed. It was agreed that the town will pursue the licensure of its beaches. Currently the town samples the following beach areas: Meetinghouse Pond, Rock Harbor, Town Cove, Pleasant Bay, Nauset Beach, Skaket Beach, Priscilla's Landing, Bakers Pond, Crystal Lake, Pilgrim Lake, Paw Wah Pond and Kent's Point.

In his discussions with Mr. Kelly, he said the town may not want to have all of the above areas posted as bathing beaches and may choose to move in another direction. Mr. Canning will be meeting with representatives of the Town Administrators Office, Park Dept, Harbor Master and Conservation Department to discuss the status of each area.

Because of the Board of Health meeting schedule, Mr. Canning requested that the Board vote to issue a beach permit to all of the current locations, conditioned upon the receipt of a complete application and compliance with the provisions of 105 CMR 445.00 Minimum Standards for Bathing Beaches. If after meeting with the above departments it is determined that some of the areas are not going to apply for a permit he would bring that information to the Board of Health at our next meeting.

On a motion by Dr. Davis and seconded by Dr. Schneider, the Board of Health voted to grant licenses to all those beaches contingent on complete applications.

In response to a question Mr. Canning reviewed the definition of bathing beaches and noted that in 2009 the State Code was changed requiring more regulation and signage. Town may not license some areas and will post that the area is not a beach (bathing area) as defined by the State code.

The vote was 5-0-0.

15 – 5 – A letter from Stanley Knowles of Oceanside Pools, Inc. had previously been distributed to Board members for review and discussion. Mr. Canning reported that the pool at the Ridgewood Motel has been worked on and is now utilizing both skimmers.

15 – 6 – A letter from the Orleans Health Department to ADG, Inc. regarding the Orleans Lobster Pound located at 157 Route 6A had previously been distributed to Board members for review and discussion. Mr. Canning reported that the restaurant had been open prior to being permitted by the Board of Health. In the future the operation will be closed until they attend a hearing before the Board of Health if they don't comply. Board members discussed other issues with the restaurant but Mr. Canning reiterated that his was a matter of getting their license in a timely manner.

15 – 7 – Two emails from Sherri Menslage of Daniels Recycling Company, Inc. dated June 8, 2012 and June 26, 2012 had previously been distributed to Board members for review and discussion.

Agenda Item 6 – Health Agent's Report

Licensing/Permits

16 – 1 – A letter dated June 6, 2012 from Ardath's Concession Stand requesting a variance for grilling outside at the Orleans Firebirds' home games had previously been distributed to Board members for review and discussion. In the past they have put the grill outside for hot dogs, hamburgers, and sausages. An adjacent mobile unit has hand washing and refrigeration facilities.

On a motion by Dr. Davis and seconded by Attorney Taylor, the Board of Health voted to grant the Variance to Ardath's Concession Stand. The vote was 5-0-0.

16 – 2 – A letter from Lynne Eldridge of the Friends of Meeting House Pond dated June 11, 2011 had previously been distributed to Board members for review and discussion. Ms. Eldridge has requested that the Board of Health waive the fee for a Temporary Food Permit because they are a non-profit organization although they do not have a tax exempt number. They held their FOMHP Regatta on July 7, 2012 from 9:00 a.m. to 1:00 p.m. at 12 Tides End Lane (a private home). They served watermelon and store-bought ice cream sandwiches purchased from a licensed market. The watermelon would be washed and cut immediately before service and would be passed on a tray with tongs for service. The ice cream would be kept in a freezer until service. Hand washing and restroom facilities were available at the house, and trash would be collected onsite by the owner.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of the Friends of Meetinghouse Pond to grant them the waiver requested. The vote was 5-0-0.

16 – 3 – A letter dated June 15, 2012 from Hernica Williams had previously been distributed to Board members for review and discussion. Ms. Williams was present at the meeting for this discussion.

Ms. Williams noted that the Red Cross in Texas is pleased with what she is doing. She presented a letter/contract from the Red Cross in Hyannis validating receipt of the donations which will be distributed by them. She explained that she has given Stop & Shop a copy of the letter and they will allow her four dates to have her table set up at their store. Ms. Williams plans to have four dates at Shaw's as well. She buys her products wholesale in Hyannis using her own money, then gives a donor a package of cookies or crackers in return for their donation.

On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted in the matter of Hernica Williams to waive the fee for the Temporary Food Permits.

Attorney Taylor amended his motion to include the specific dates at Stop & Shop: July 19, July 26, August 16, and August 23, all from 10:00 a.m. to 3:30 p.m. At Shaw's: July 18 and August 8 from 10:00 a.m. to 4:00 p.m., and give her two yet-to-be determined dates to offer her products at Shaw's. The vote was 5-0-0.

16 – 4 – The HACCP for preparation of sushi in a retail operation at the Hunan Gourmet had previously been distributed to Board members for review and discussion.

On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted in the mat-

ter of the Hunan Gourmet to accept the HACCP as presented conditioned upon the Health Department going through all procedures with the sushi operation. The vote was 4-0-1. Ms. Suraci abstained from the vote because she was not clear on the issue.

Food Service Permits

Guapo's Tortilla Shack

Kyle Parker, owner of Guapo's Tortilla Shack located at 136 Route 6A (Orleans Market Place), had requested a Food Service Permit to operate a sixty-five seat restaurant.

On a motion by Attorney Taylor and seconded by Mrs. Suraci, the Board of Health voted in the matter of Guapo's Tortilla Shack to grant a Food Service Permit conditioned upon a final inspection by the Health Department. The vote was 5-0-0.

Temporary Food Service Permits

Gypsy Wind Productions

Jean Meike, owner of Gypsy Wind Productions had requested Temporary Food Service Permits to sell and offer samples of jams and jellies at the Cape Cod Artists and Craftsmen Show outside at the Nauset Regional Middle School on July 24 and 25, 2012 from 10:00 a.m. to 5:00 p.m. She will require variances for the lack of a Certified Food Protection Manager and the menu which is open sampling with store bought crackers. A hand-washing station would be set up in the booth. Jam would be sampled with disposable spoons, and tongs are used for the crackers. Samples will be covered as practicable. Garbage would be disposed of by event coordinators.

On a motion by Dr. Davis and seconded by Attorney Taylor, the Board of Health voted in the matter of Gypsy Wind Productions to grant a Temporary Food Service Permit and Variance for a Certified Food Protection Manager and the menu for the dates listed previously. The vote was 5-0-0.

Cape Cod Cookies-To-Go

Janice Peterson, owner of Cape Cod Cookies-To-Go had requested a Temporary Food Service Permit to sell pre-packaged home-made cookies at the Cape Cod Artists and Craftsmen Show outside at the Nauset Regional Middle School on July 24 and 25, 2012 from 10:00 a.m. to 5:00 p.m. The company holds a Wholesale Food Permit from Harwich. There would be no sampling. All cookies are to be pre-packaged with required labeling.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted to grant a Temporary Food Permit to Cape Cod Cookies-To-Go for the dates listed previously. The vote was 5-0-0.

Lakonia Greek Products

Melissa Rioux, owner of Lakonia Greek Products had requested a Temporary Food Service Permit and variances for lack of a Certified Food Protection Manager and for the menu which is open sampling of olive oil, dressing, and olives at the Cape Cod Artists and Craftsmen Show outside at the Nauset Regional Middle School on July 24 and 25, 2012 from 10:00 a.m. to 5:00 p.m. The company holds a Food Permit in Maine and will be preparing pre-cut bread at the facility in Maine. Toothpicks would be offered for sampling of bread to dip in the olive oil and olives. Hand sanitizer and gloves would be available. A hand-wash station would be set up in the booth.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted to grant a Temporary Food Service Permit and also the Variance for a Certified Food Protection Manager and the menu for the dates listed previously. The vote was 5-0-0.

Best Kettle Korn

Dean Auerswald, owner of Best Kettle Korn, had requested a Temporary Food Service Permit and variances for lack of a Certified Food Protection Manager and for the menu which is open sampling of kettle corn at the Cape Cod Artists and Craftsmen Show outside at the Nauset Regional Middle School on July 24 and 25, 2012

from 10:00 a.m. to 5:00 p.m. The kettle corn would be made on-site with a tent over the food preparation and service area as well as rubber mats on the ground. A scoop would be used to portion the popcorn. Portable hand-washing facilities would be available.

On a motion by Attorney Taylor and seconded by Mrs. McKusick, the Board of Health voted in the matter of Best Kettle Korn to grant a Temporary Food Service Permit and Variances for lack of a Certified Food Protection Manager and for the menu for the dates listed previously. The vote was 5-0-0.

Lower Cape Pop Warner

Kristin Dash representing the Lower Cape Pop Warner, a non-profit organization, requested a Temporary Food Service Permit for football games on September 09, 16, 23, and 30, and October 7, 14, 21, and 28, 2012. The games will be held at the Nauset Regional Middle School field. Because the organization is non-profit they are not required to have a Certified Food Protection Manager; however they have someone who is about to be certified. The menu has potentially hazardous food items. They will be serving coffee, hot chocolate, muffins, and donuts from Dunkin Donuts from 9:00 a.m. to 11:00 a.m. each day; and hot dogs and hamburgers from 11:30 a.m. to 3:00 p.m.; and bottled water, soda, juice, granola bars and chips 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 brought to the field the day of the games. Hamburgers and hot dogs will be held under refrigeration until use; burgers will be held and cooked frozen. Hand-washing facilities are not available on-site, however a hand-washing station will be set up using a bucket with a spigot, hand soap and paper towels. Hand sanitizer will be available. 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 next use). Tongs, gloves and wax paper will be used for service with extra utensils available if needed. Only disposable items will be used for customer service. A tent will be provided over the serving area. Porta-potties will be available.

On a motion by Dr. Davis and seconded by Mrs. Suraci, the Board of Health voted in the matter of Lower Cape Pop Warner to grant Temporary Food Service Permits for the dates listed previously. The vote was 5-0-0.

Cape Cod Cranberry Harvest

Debbie Greiner of Cape Cod Cranberry Harvest had requested a Temporary Food Service Permit and a variance for sale and sampling of jams and jellies at the Cape Cod Artists and Craftsmen Show outside at the Nauset Regional Middle School on July 24 and 25, 2012 from 10:00 a.m. to 5:00 p.m. Cape Cod Cranberry Harvest is licensed as both a retail and wholesale vendor. Jam or jelly would be placed on a cracker by the vendor and set out for tasting. Gloves and spoons will be used to prevent bare-hand contact. Restrooms and hand-washing facilities are available onsite. Only disposable items would be used.

On a motion by Mrs. Suraci and seconded by Dr. Schneider, the Board of Health voted in the matter of Cape Cod Cranberry Harvest to grant approval of a Temporary Food Service Permit and Variance for sale and sampling of jams and jellies for the dates listed previously. The vote was 5-0-0.

Orleans Chamber of Commerce

Mary Corr, representing the Orleans Chamber of Commerce, had requested a Temporary Food Permit to sell pre-packaged brownies, cookies, coffee, bottled water, and canned soda at the Pops in the Park at Eldredge Field on Saturday August 25, 2012 with a rain date of August 26, 2012 from 5:00 p.m. to 9:00 p.m. Everything will be pre-packaged and single use articles. Restrooms and porta-potties would be available onsite. Hand-washing is available at the public restrooms and hand sanitizer will be available.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted approval for the Chamber of Commerce and Pops in the Park contingent upon confirmation of the food source. The vote was 5-0-0.

Mr. Canning noted that the following events had taken place and that the Temporary Food Permits needed to be ratified by the Board members.

Orleans Methodist Church

Kathi Lewis, representing the Orleans Methodist Church, had requested a Temporary Food Service Permit for the Firecracker Café which was held on July 4, 2012 from 8:00 a.m. to 12:00 p.m. They would also need a variance for the menu and for cooking outdoors. Hot dogs, lobster rolls, chips, soda, water, coffee, and donuts were served. The lobster rolls were prepared and wrapped inside the licensed kitchen and were kept under refrigeration inside the kitchen and brought a few at a time to cold holding located outside in the serving area. Hot dogs were heated in the licensed kitchen and held hot outdoors to be prepared to order. Donuts from Dunkin Donuts were served to guests by volunteers using gloves. Other items were held at proper temperatures in the church kitchen until needed for service. Condiments were in squeeze bottles. A tent was set up above the serving area. The food was from licensed sources. Tongs and gloves were used to prevent bare-hand contact. Everything was single use articles. Restrooms and hand-washing facilities were available inside the church.

Orleans Firemen's Relief Association

The Orleans Firemen's Relief Association had requested a Temporary Food Service Permit for the pancake breakfast held on Sunday, July 1, 2012 from 7:00 a.m. to 11:00 a.m. in the Orleans Fire Station. Pancakes, sausages, syrup, butter, orange juice, coffee, and milk were served. A variance was needed for the menu; however, because it is a non-profit organization a Certified Food Protection Manager was not required. The food was purchased from Stop & Shop. The pancakes were cooked, and sausages re-heated on griddles. The orange juice and milk were held in the refrigerator until service. Gloves were used to prevent bare-hand contact. Hand-washing and restroom facilities were available on-site. Paper plates, cups and plastic utensils were used.

Church of the Holy Spirit

Jack Gentile, representing the Church of the Holy Spirit, a non-profit organization, had requested a Temporary Food Permit for their Summer Fair which was held on July 7, 2012 from 9:00 a.m. to 3:00 p.m. at the church located at 204 Monument Road. Richard O'Hara was the Certified Food Protection Manager.

Hamburgers, cheeseburgers, hot dogs, veggie burgers, lobster rolls, potato chips, bottled water, soda, iced tea, and lemonade were served along with bottled condiments. Burgers, veggie burgers, and hot dogs were cooked and held for service outdoors on grills. Beverages were bottled, and single-serve beverages were held on ice. The lobster rolls were prepared in the licensed kitchen and served to the consumer from that licensed kitchen. Restrooms and hand-washing facilities were available onsite. Spatulas, tongs and gloves were available for food service. Paper plates, cups, etc. were used for consumer items.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted to ratify the four events the chairman was already aware of. The vote was 5-0-0.

Farmers' Market Retail Sales Permit

The Art of the Meal

Dianne Collatos of The Art of the Meal had applied for a Farmers' Market Retail Sales Permit to sell Grecian inspired cuisine at the Orleans Farmers' Market. She operates a catering business out of a commercial kitchen at the Chatham VFW on George Ryder Road in West Chatham, MA. All products will be pre-packaged, labeled and held cold at the Farmer's Market. She will be offering Greek dips and dishes including Hummus of many flavors, cucumber dill, sundried tomato, and scallion with organic whole wheat pita; Spanakopita, Baba Ganouche, Taboulli, Tzaziki yogurt, dill, garlic, and cucumber dip; vegetable with chicken lemon soup, etc., all held cold. Ms. Collatos will also offer weekly specials with in-season vegetables, stuffed peppers, squashes, and tomatoes with vegetables and rice. She will have some meats, moussaka, pastitsio, and Greek salad roll-ups, etc.

On a motion by Mrs. Suraci and seconded by Attorney Taylor, the Board of Health voted in the matter of The Art of the Meal to approve a Farmers' Market Retail Sales Permit. The vote was 5-0-0.

Animal Control/Barn Regulations

As the Board is aware the Massachusetts General Laws empower the Board of Health with the licensing of stables in a town and as such the Health Department has been looking into animal control/stable regulations. Recently, Mr. Canning met with Judy Scanlon of the Orleans Agricultural Advisory Committee to discuss the Board of Health efforts to write Animal Control/Barn Regulations. He informed Ms. Scanlon that the Health Department has gathered and has been reviewing regulations from other Cape Cod towns; however, to date regulations for Orleans have not been drafted. The Agricultural Advisory Committee would like to promote Orleans as a Right-To-Farm community. Through discussions, it was determined that it would be prudent to have both groups work together in developing animal control regulations.

The Agricultural Advisory Committee has a lot of information on raising and maintaining animals on property that will be helpful, but it will be necessary for the two groups to work together to discuss potential differences in their goals. Mr. Canning informed Ms. Scanlon that he would discuss this matter with the Board of Health and look for input.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted to endorse the Health Department to work with the Agricultural Advisory Committee in the effort to develop Animal Control Regulations. The vote was 5-0-0.

Agenda Item 4 – Bedroom Determination – 53 Great Oak Road

Ms. Trish Griffin, co-owner of the property at 53 Great Oak Road, was present for this hearing. She explained that she and her sister had purchased this property in 1999 as a four-bedroom home. Orleans tax records indicate that it is a four-bedroom home with an approved four-bedroom septic. In 2010 they replaced the septic system with a five-bedroom Title 5 septic system with the hope of expanding the house in the future. However, when measured by the Health Department, it was determined that one of the bedrooms does not comply with the current requirements for a bedroom. Ms. Griffin requested a variance to allow that room to be counted as a fourth bedroom.

Mr. Canning explained that in 2009 the new septic system application preceded the Nutrient Management Regulations. In 2010, at the owner's request, the Health Department viewed the property and measured the bedrooms. A second floor bedroom has only a six-foot ceiling where seven feet is required. The owner has also filed a Building Permit for expansion to allow a five-bedroom home by raising the roof. He explained that the variance requested is to the State Housing Code for six inches in the ceiling height. If approved by the Board, the owner would be required to record the variance at the Registry of Deeds.

Board members discussed the size of the lot which is 6/10 of an acre. It was noted that if the variance is granted, the house would stay at four bedrooms; if the variance is denied, the owner could build a fifth bedroom. It was discussed when the seven foot ceiling height regulation went into effect and how it affects older homes that were built before. Mr. Canning responded that it had been in effect before 1980, and now the Building Code requires bedroom ceiling heights over seven feet.

On a motion by Dr. Schneider and seconded by Mrs. Suraci, the Board of Health voted in the matter of 53 Great Oak Road that we agreed that the fourth bedroom, which has traditionally been a bedroom, even though the ceiling height of six feet, six inches is less than the required seven feet, be granted a six inch Variance so that it can continue to be called a bedroom. And that this must be registered at the Registry of Deeds. The vote was 5-0-0.

Agenda Item 5 – Variance Request – 31 Mill Pond Road

Mrs. Judy Bersin of Ryder & Wilcox represented Sheila Hopkins (also present), new owner of the property at 31 Mill Pond Road. Mrs. Dorothea Curry of 33 Mill Pond Road, an abutter, was also present for this hearing.

Mrs. Bersin explained that as a result of the recent sale of the property, the existing cesspools had to be replaced so a new septic system is proposed for a three-bedroom dwelling. The house currently has two bedrooms. She proposed installation of an I/A FAST system which would allow three bedrooms according to the Orleans Nutrient Management Regulations. Mrs. Bersin noted that using a FAST system, the nitrogen loading concentration from three bedrooms would be less than that using a standard Title 5 septic system for two bedrooms. There are no wetlands on the property.

Mr. Canning reiterated that this variance is from the Nutrient Management Regulations which allows a variance without proving a hardship as long as the same degree of environmental protection is demonstrated. The request is for a variance to allow three bedrooms on a 13,000 square foot lot. He noted that the FAST technology has been used successfully in the past and the operator would have to maintain nitrogen discharge of less than 19 ppm.

Mrs. Curry (abutter) presented a diagram showing the subject property in close proximity to her property, as well as an excerpt of Warnings from the FAST Owner's Manual. (*Exhibit 5-1*) She explained that in the past the house had been used as a rental property. Mrs. Curry discussed the warnings from the manufacturer and she feels she would definitely be affected by installation of a FAST system.

Ms. Sheila Hopkins, the new owner, joined the discussion. She explained that currently she lives in a National Seashore house with a lease to expire in eight years; however, she plans to live on Mill Road during the winter. Ms. Hopkins expects that she will rent the house during the summer months.

Board members discussed an alternative location for the blower as indicated on the site plan and asked Mrs. Curry if she might accept an alternate location for the blower. Mrs. Bersin noted that FAST systems have been in use for a long time. Board members noted that they are very comfortable with the use of I/A systems, and that the alarm is a good thing and not unreasonable. They discussed if there is any way to mitigate the noise of the blower. Mrs. Bersin explained that it cannot be below ground, but it could be fenced.

Ms. Hopkins explained that she investigated the level of the noise and found that it is approximately half the noise of a window air conditioner.

Mr. Canning reported that there are several FAST units in Orleans and he has had no complaints of noise from them. However, if it is noisy, it would be the responsibility of the owner to mitigate the sound. Mrs. Bersin offered that there is a vent from the tank which may be odorous; however, the owner could use shrubs or a charcoal filter to dissipate the odor.

Mrs. McKusick explained the requirements of the Board of Health for use of an I/A septic system, and that the owner is responsible for having a maintenance contract. That information is monitored by the Health Department and the County Department of Public Health.

Dr. Schneider urged a compromise between the new owner and her neighbor.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of 31 Mill Pond Road to grant permission for installation of a FAST system with the following conditions as pictured on the plans presented to the Board today: (1) The electronic blower be relocated around to the west side of the house making sure that it is still within one hundred feet from the property line on the west side of the house to prevent noise. (2) That the system be vented. (3) That the imposition of the standard regulations for monitoring an I/A system be imposed upon the owner including a maintenance contract. The vote was 5-0-0.

Agenda Item 6 – Definitive Subdivision – 93, 97, and 97A Skaket Beach Road

Mr. Philip Scholomiti of Ryder & Wilcox represented The Estate of Leland H. Williams, owner of the property at 93, 97, and 97A Skaket Beach Road, for this discussion. He presented to the Board the Definitive Subdivision Plan for the property which is the same as the Preliminary Subdivision Plan previously reviewed by the Board of Health. He noted that both septic systems currently on the property have been upgraded to Title 5

septic systems. All three buildable lots have town water. Lot 4 is not a buildable lot and will be combined with an abutting parcel.

Board members discussed whether the panhandle would be paved for access to the back lot. Mr. Scholomiti explained that a gravel driveway is proposed. Mr. Scholomiti was asked if this property is currently one lot, to which he explained that it is currently three lots. This subdivision converts one of the lots which was unbuildable into two lots, one buildable and one unbuildable to be conveyed to the abutter.

On a motion by Mrs. Suraci and seconded by Dr. Schneider, the Board of Health voted in the matter of 93, 97, and 97A Skaket Beach Road to approve the subdivision as the newly-presented subdivision that is breaking into three lots, the fourth lot will be conveyed to the abutters, Donald and Laurie Williams. The three lots as presented with the panhandle on Lot 3A and its drainage easement on the northeast corner be approved with the stipulation that Lot 4A is unbuildable and cannot be conveyed other than to the abutter. The vote was 5-0-0.

Mrs. Suraci amended her motion to note that the stipulation that Lot 4A is unbuildable and cannot be built upon.

Agenda Item 7 – Variance Request – 197A Main Street

Mrs. Judy Bersin of Ryder & Wilcox represented Frances M. Davis Trustee, owner of the property at 197A Main Street, for this discussion. This proposal is for a system upgrade for a four-bedroom dwelling by replacing the existing cesspools. Because most of the property is within a 100 foot buffer zone, there is not much room for a new septic system without being required to request approval from the Conservation Commission. Mrs. Bersin discussed the proposed location of the distribution box requiring a variance and noted that all components will be H20. The septic tank will be located on the west side of the house and allowing gravity flow to the leaching area would result in inspection covers greater than 36 inches below finish grade requiring a three-foot variance. The leaching area will be vented.

Mr. Canning reiterated that the distribution box must be H20 rated if it is more than three feet below grade. He also noted that there is a sunroom/dining room which should be reclassified as a dining room.

On a motion by Dr. Davis and seconded by Dr. Schneider, the Board of Health voted in the matter of 197A Main Street, Map 35, Parcel 90. Findings are that the lot is somewhat small so we need to grant local upgrade approval. A Variance to 310 CMR 14.211 – Minimum Setback Distances; the distribution box shall be less than ten feet from the garage slab so that is a 4.5 foot Variance. And also a Variance to 310 CMR 15.221 – General Construction Requirements for All System Components (7); the distribution box and soil absorption system shall be greater than 36 inches below finish grade so a three-foot Variance is required there. I move that we approve those too. The vote was 5-0-0.

Agenda Item 8 – Variance Request – 37 Woodsneck Road

Mrs. Judy Bersin of Ryder & Wilcox represented Bruce and Elizabeth Likely, owners of the property at 37 Woodsneck Road. Mr. Jay Merchant (present for this hearing) of Chase and Merchant explained that they had installed the septic system several years ago. He explained that they had not obtained an inspection prior to grading over the sewer line to the septic tank. However, when the inspection was conducted the inspector could observe that water was running from inside the house into the septic tank without any problem. He explained that although the top of the septic tank is greater than 36 inches below grade, they had installed an H20 Tank Slab on the septic tank.

Mr. Canning explained that the initial design plans indicated that the components would be 36 inches below the finish grade; however, the final grading resulted in the covers being 72 inches below grade. All components more than 36 inches below grade are required to have H20 components to support a load, and must be vented. He noted that the H20 Tank Slab should be confirmed and that the distribution box might need to be

replaced with an H2O component. If those requirements cannot be confirmed, a variance to Title 5 would be required; then sent for State review and approval.

Board members discussed that they could require venting and grant a variance. Mr. Canning suggested that Mrs. Bersin might first confirm whether the components are H2O rated.

Mrs. Bersin explained that the Cultec Recharger chambers are already H2O rated and the septic tank has an H2O cover. Mr. Canning noted that the H2O cover over the septic tank must be supported by a layer of soil to disperse the weight of the covering soil from the sides of the tank. Mrs. Bersin suggested installing a slab over the distribution box which would bring it to within 36 inches of the finish grade; also venting for the trenches.

Board members discussed exposing the distribution box and installing an H2O cover on it raising it to within 36 inches of grade, venting the leach trenches, and having a letter confirming that the body and sidewalls of the septic tank are essentially H2O. Mr. Canning suggested that the Board grant local upgrade approval with the condition that the engineers certify to the Board that the components are H2O rated and that the system is vented as required.

On a motion by Dr. Davis and seconded by Attorney Taylor, the Board of Health voted in the matter of 37 Woodsneck Road to do exactly what Mr. Canning said. The vote was 5-0-0.

Agenda Item 9 – I/A Approval – 65 Old Colony Way

Mrs. Stephanie Sequin of Ryder & Wilcox and Todd Thayer represented 65 Old Colony Way, LLC, owner of the property at 65 Old Colony Way, for this discussion. Mr. Canning distributed an emailed letter dated July 12, 2012 from Veronica Luscinski, an abutter at Bayberry Village (*Exhibit 9-1*).

Mrs. Sequin outlined the location of the building and noted the lot size at 56,519 square feet. The building, still under construction, has a design flow of 600 gallons per day. While three-quarters of the building is to be occupied by Spaulding, the remaining space could be occupied by two physicians. If the other space is leased by physicians it would necessitate an increase the design flow which would exceed the Nutrient Management Regulations. Mrs. Sequin requested a variance to the NMR to allow a flow in excess of 110 gallons per day per 10,000 square feet. She proposed including a Septi Tech I/A component for nitrogen reduction from 660 gallons per day with a standard Title 5 resulting in nitrogen concentration of 7.19 mg/l to a 977 gallons per day building with an I/A component for nitrogen reduction resulting in nitrogen concentration of 5.82 mg/l. Mrs. Sequin also requested a variance for relocation of the Septi Tech component in a green area between the parking area and Old Colony Way for better inspection and maintenance accessibility. However, that places it within fifty feet of a drain pipe that discharges into a wetland. Mrs. Sequin requested an eleven foot variance to allow this placement. This construction is not in Zone 2; it is in the Limited Business District so it is not exempt from the Nutrient Management Regulations as is the Village Center District.

In 2006 a previous owner received approval from the Conservation Commission for a mixed-use building with two apartments and 5200 square feet of office space. A design flow of 1050 gallons per day was allowed at that time.

Mr. Canning noted that a commercial lot does not have the same standard of review for a variance. Under the Nutrient Management Regulations a commercial property owner would have to demonstrate that literal enforcement of the regulation would involve substantial hardship, financial or otherwise; and the proposed system would provide the same level of protection to groundwater and surface water, as would be provided by strict application of the code. He also noted that 25 ppm is standard nitrogen loading for a commercial building.

Mr. Canning acknowledged the letter from Veronica Luscinski, an abutter at Bayberry Village (*Exhibit 9-1*) in which she expressed her concerns about the variance request.

Mr. Thayer spoke about the quality of the main occupant of the building (Spaulding Rehabilitation), and noted that he had not anticipated difficulty in changing the occupancy. Attorney Taylor noted that Mr. Thayer's re-

quest does not comply with the original proposal and it is not a residential property or a hardship for the proponent. He is concerned that they could have other occupants that might not fit with the medical usage proposed.

Dr. Schneider noted that this is not a gallons-per-day issue; it is a corner of town being developed for medical uses and he is in favor of it. Dr. Davis noted that the abutter's concern might be that there may be a request in the future for a larger building. Mrs. Sequin explained that Conservation Commission would limit the size of the building. Dr. Davis inquired if the building could be built higher to which Mrs. Sequin responded that the Cape Cod Commission would likely be involved in that decision. Mrs. Suraci opined that the abutter is concerned about it being in a residential area; however Ms. Suraci stated she is reluctant to allow an increase in the flow capacity. Mrs. McKusick addressed the Nutrient Management Regulations' requirement to prove hardship and inquired why Mrs. Sequin had chosen the Septi Tech unit. She also noted that commercial buildings have a different type of flow than from a residential building.

Mrs. Sequin responded that during redesign of the system they first had to determine how and where the increased capacity might be located. Another concern was requiring a pump because of the lack of room for gravity flow. She explained that the Septi Tech unit has a pump built into it so that fulfilled the requirement for a pump, and a sales representative from Septi Tech reported that they have had good testing results using this unit. Mrs. McKusick inquired about the strength of sewerage from a non-residential property. Mrs. Sequin responded that an operator would be responsible for adjustments to the system to maintain the proper balance. Mr. Thayer noted that only one letter in opposition out of many abutter notifications is admirable. He noted that there is some hardship because of the need to increase the number of medical offices because they are limited to the 250 gpd limit in other parts of town. Not only are they requesting a variance for the increase in septic flow, they have offered a solution that uses I/A technology to effectively reduce the amount of nitrogen loading.

Dr. Schneider remarked that it is advantageous to have several health facilities in the same area.

Mr. Canning cautioned that approval of a flow of 900 gpd would allow any other use in that space. He asked if the Board would accept a lesser flow from the proposed office space.

Mrs. Sequin added that a doctors' office with two physicians would have to be sited on more than an acre of land according to the Nutrient Management Regulations.

Lydia Moore of 73 Old Colony Way, an abutter right next to the new Spaulding, noted that she is a nurse and inquired what type of doctor Mr. Thayer had in mind. He responded that he has some prospects but nothing specific yet. Ms. Moore also inquired where the doctors' offices would be located in the building to which Mr. Thayer responded that from the front they would be on the left side of the building.

Mrs. McKusick noted that parking is an issue now for Spaulding. Mrs. Sequin responded that the parking requirement for office space generates the need for seven spaces. Parking for a doctor's office is based on the number of exam rooms. They have 39 spaces total for the building.

Dr. Schneider inquired if the prospective doctors might be related to the Spaulding business of rehabilitation. Mr. Thayer responded affirmatively, but there are others as well.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of 65 Old Colony Way that we grant approval of an I/A system to be installed on the property. It will be a Septi Tech system. It will increase the capacity of the system to 977 gallons. That the calculations for nitrogen removal and thus nitrogen going into the groundwater indicates an improvement from 7.19 ppm to 5.82 ppm and the maximum discharge of 19 ppm. That the conditions of testing and maintenance contract be adhered to. The Septi Tech system will be 39 feet from the drainage system discharging into a watercourse; therefore we grant an eleven foot Variance. According to the Nutrient Management Regulations the standard of review in Section 8.1.2 has two subsections: They clearly meet one

and in the judgment of the Board they have explained the rationale for hardship sufficient to allow this to go forward. The vote was 5-0-0.

Agenda Item 10 – Approval Request – 10 Nauset Road

Mr. Andrew Grover of Ryder & Wilcox represented Douglas and Jennie Jacoby, proponents, and John F. Lavendier, owner of the property at 10 Nauset Road for this discussion. Mr. Grover requested approval for alterations to a 1978 Code septic system. The proponents will be replacing the existing dwelling with a new four-bedroom house to tie into the existing septic system. He discussed the existing septic system which consists of a 1000 gallon septic tank, a distribution box, and a leach pit that was designed and installed in 1995 for four bedrooms. The system has an approved capacity of 440 gallons per day and complies with the Nutrient Management Regulations transition rule. The proponent had filed for a Building Permit prior to June 1, 2012. Upon inspection in March, it was noted that there were no structural or hydraulic issues with the septic system. Mr. Grover noted that the Site Plan indicates a full reserve area and the request is compliant with the Orleans Nutrient Management Regulations; therefore, he requested that the Board allow a new sewer connection to this system.

Mr. Canning explained that the Board of Health had previously granted a variance for a third bedroom so it is listed as a three-bedroom house in the Health Department files. He confirmed that all filings were submitted in a timely manner under the NMR transition rules to increase the flow to four bedrooms. The issue before the Board is to allow the modification of a 1978 Code system to connect the new house foundation to the existing septic tank.

Board members discussed the new building floor plans indicating a laundry/office and its size. Mr. Grover responded that the room measures 8 x 8 which is 64 square feet.

On a motion by Attorney Taylor and seconded by Mrs. McKusick, the Board of Health voted that the request made by 10 Nauset Road on behalf of the Jacoby's be granted as presented to the Board with no further modifications. The vote was 5-0-0.

Agenda Item 11 – Variance Request – 14 Country Crossing

Mrs. Judy Bersin of Ryder & Wilcox represented Ms. Wendy Ehrlich, owner of the property at 14 Country Crossing for this discussion. Mrs. Bersin explained the request to install a fence around a new pool and pool house that is greater than twenty feet from the pool deck which requires a variance from Town Code. The fence will be four feet in height and will be constructed of green chain link to blend in with vegetation. There are self-closing gates and latches as required. The pool will have a power-safety cover which will not require the owner to install an alarm system. The plan shows that the fence will be three feet in from the property line with plantings in front of it.

Mr. Canning explained that this is a variance to a Town Code requiring that a swimming pool fence must be no more than twenty feet from a pool deck. The Board must consider if the fence meets the requirement to protect the public health and safety required by the by-law. He noted that the Board had reviewed similar requests in the past and expressed concern about monitoring the fence to be sure it remains structurally intact, to ensure that no one can enter the pool without the owner's knowledge, either from outside the property or from inside the house.

Mr. David Normandy of 15 Country Crossing, a direct abutter to the subject property, was concerned about the close proximity of the fence to the street. He expressed that if the fence were closer to the pool, natural vegetation would screen it. Mr. Normandy thought it would not be a great hardship for the owner to have the fence closer to the pool deck. Dr. Davis inquired how much closer the fence would have to be to have vegetation screen it. Mrs. Bersin explained that the fence is proposed to be approximately sixty feet from the pavement.

Board members discussed moving the fence closer to the gazebo. Dr. Schneider inquired why the regulation states that the fence should be within twenty feet from the pool. He surmised that safety is the issue for the

fence to be within twenty feet. Mrs. Suraci stated she is absolutely opposed to extending fencing to include a house.

On a motion by Attorney Taylor and seconded by Mrs. McKusick, the Board of Health voted in the matter of 14 Country Crossing to deny the request for Variance and require that the swimming pool fence be no further than twenty feet from the apron of the swimming pool. The vote was 5-0-0.

Dr. Davis was excused from the meeting at this time.

Agenda Item 12 – Variance Request – 129 Route 6A

Mrs. Judy Bersin of Ryder & Wilcox represented C. L. Realty Trust, owner of the property at 129 Route 6A, for this discussion. The businesses at this location are JoMamma's Bagels, a beauty salon, office, and retail space. The septic system had failed about ten years ago and was repaired. Now the grease trap has failed again and must be replaced. The owner intends to replace the grease trap and leach field in the same location as the current ones because of the tightness of the lot and requested the same variances for distance to the garage slab and to the property line.

Board members discussed that the grease trap was responsible for the failure. Mr. Canning explained that a grease trap's function is based on retention time, and since they didn't maintain it, there was a terrible build-up of grease which damaged the leaching field. He noted that Title 5 requires that the grease trap be pumped quarterly. Mrs. Bersin explained that the owner was not aware of that requirement.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of 129 Route 6A to grant permission to install a new system with these Variances: The leach field will be six feet from the property line; a four foot Variance, ten feet are required. The leach field will be 16 feet from a cellar wall; a four foot Variance, twenty feet are required. The vote was 4-0-0.

Agenda Item 13 – Discussion – 11 Sparrowhawk Road

Mr. David Quinn of Ryder & Wilcox represented Mr. Nick Muto, owner of the property at 11 Sparrowhawk Road, for this discussion. Mr. Quinn performed a septic inspection at the property on June 22, 2012. He reported that he opened the septic tank which had been installed in 1976 when the house was built. The septic system consists of a septic tank, a distribution box, and two leach pits. There is a Disposal Works Construction Permit but no plan is on file in the Health Department. On the permit the dwelling is listed as having two bedrooms, but actually there are three bedrooms. Upon inspection it was found that the distribution box must be replaced. From the distribution box he was able to inspect with a camera both leach pits which are six feet down in sand. Further inspection of the distribution box revealed that one exit pipe is lower than the other (typical of that era). The leach pit with the lower pipe was full and there was water in the pipe. The pit connected to the higher pipe has three feet of leaching capacity left and the walls are clean. Mr. Quinn requested permission to install new distribution box and use just one pit. The leach pit is six feet by eight feet and is adequate for a three-bedroom dwelling. The house is for sale.

Mr. Canning reported that the septic system was installed under Article 11 in 1975 consisting of two leach pits. He does not recommend discontinuing use of a leaching pit since it was in the original design of the system. However he has allowed replacement of the distribution box and attempting to redistribute the effluent equally to both pits, and then monitor it. The better leaching pit does have capacity for three bedrooms; however he would prefer to keep both leach pits connected to the system.

Board members discussed replacing the distribution box and keeping both pits and monitor the system. Mr. Canning was asked if the Board needed to be involved if the only action to be taken is to replace the distribution box, balance the flow, and reinspect it in six months; to which he responded that a component of the system has failed and has backed up. It was noted that the property is for sale and the current status of the septic system could discourage a buyer. Although it doesn't solve the problem it was suggested that the owner pro-

**DOCUMENTS PROVIDED FOR THE July 12, 2012
MEETING OF THE ORLEANS BOARD OF HEALTH**

Agenda Item 1 – Public Hearing Notice – Regulations for the Sale and Use of Tobacco and Nicotine Delivery Products

- 1 – 1 – Public Hearing Notice
- 1 – 2 – OBOH Regulations for the Sale and Use of Tobacco and Nicotine Delivery Products, Draft #2
- 1 – 3 – Memo from Michael Ford, Town Counsel, dated July 9, 2012
- 1 – 4 – Memo from OBOH to Orleans Tobacco Sales Permit Holders dated July 2, 2012
- 1 – 5 – News article dated July 4, 2012
- 1 – 6 – General Information on Roll Your Own Provision in the recently-passed Federal Transportation Bill
- 1 – 7 – Web article titled: Roll-Your-Own Shops May Have to Close dated July 2, 2012

Agenda Item 4 – Bedroom Determination – 53 Great Oak Road

- 4 – 1 – Letter from Trish Griffin dated June 12, 2012
- 4 – 2 – Memo from R. Canning re: Bedroom Determination

Agenda Item 5 – Variance Request – 31 Mill Pond Road

- 5 – 1 – Variance Application Form
- 5 – 2 – Letter from Dorothea Currie to OBOH dated June 28, 2012
- 5 – 3 – Excerpts from OBOH Nutrient Management Regulations
- 5 – 4 – Proposed On-Site Sewage Treatment and Disposal System Plan dated June 7, 2012
- Exhibit 5 – 1 – Material provided by Dorothea Currie at the Meeting on July 12, 2012

Agenda Item 6 – Definitive Subdivision – 93, 97, and 97A Skaket Beach Road

- 6 – 1 – Letter from Ryder & Wilcox to OBOH dated June 8, 2012
- 6 – 2 – Memo from R. Canning to Planning Department dated May 18, 2012
- 6 – 3 – Definitive Subdivision Plan of Land dated June 1, 2012

Agenda Item 7 – Variance Request – 197A Main Street

- 7 – 1 – Variance Application Form
- 7 – 2 – Proposed On-Site Sewage Treatment and Disposal System Plan dated June 18, 2012

Agenda Item 8 – Variance Request – 37 Woodsneck Road

- 8 – 1 – Variance Application Form
- 8 – 2 – Site Plan Showing Existing Sewage Disposal System

Agenda Item 9 – Variance Request – 65 Old Colony Way

- 9 – 1 – Variance Application Form
- 9 – 2 – Site Plan – Proposed Office Building
- 9 – 3 – Excerpts from OBOH Nutrient Management Regulations
- Exhibit 9 – 1 – Letter from Veronica Luscinski, abutter at Bayberry Village

Agenda Item 10 – Approval – 10 Nauset Road

- 10 – 1 – Hearing Request
- 10 – 2 – OHD letter dated March 26, 2012 to John Lavendier
- 10 – 3 – House Plans dated May 7, 2012
- 10 – 3 – Letter from Ryder & Wilcox to OHD dated June 29, 2012
- 10 – 4 – Site Plan – Proposed Dwelling dated June 14, 2012

Agenda Item 11 – Variance Request – 14 Country Crossing

- 11 – 1 – Letter/Variance Request from Ryder & Wilcox dated July 2, 2012
- 11 – 2 – Proposed On-Site Sewage Treatment and Disposal System Plan dated April 25, 2012

Agenda Item 12 – Variance Request – 129 Route 6A

- 12 – 1 – Variance Application Form
- 12 – 2 – Proposed Leaching Field Replacement Plan dated June 29, 2012

Agenda Item 13 – Discussion – 11 Sparrowhawk Road

- 13 – 1 – Request for Meeting/Hearing

Agenda Item 14 – Approve Minutes

- 6 – 1 – OBOH Minutes of Meeting held on June 7, 2012

Agenda Item 15 – Review Correspondence / Old-New Business

- 15 – 1 – IOS Waiver Request – 92 Nickerson Road
- 15 – 2 – IOS Waiver Request – 30 O’Conner Road
- 15 – 3a – Letter from OHD to Daniels Recycling Company, Inc. dated July 3, 2012
- 15 – 3b – Attachment A – Asbestos Inspection Protocol
- 15 – 3c – OBOH Construction & Demolition Facility Inspection Report dated June 26, 2012
- 15 – 4 – Letter from MDPH to Orleans Board of Selectmen dated June 11, 2012
- 15 – 5 – Letter from Stan Knowles to OHD dated June 25, 2012
- 15 – 6 – Letter from OHD to ADG, Inc. (Orleans Lobster Pound) dated June 14, 2012
- 15 – 7 – Memo from DRCI to OHD dated June 8, 2012

Agenda Item 16 – Health Agent’s Report

- 16 – 1 – Letter Request from Ardath’s Concession Stand dated June 6, 2012
- 16 – 2 – Letter Request from Friends of Meetinghouse Pond dated June 11, 2012
- 16 – 3 – Letter from Hernica Williams dated June 15, 2012
- 16 – 4 – Guidance for Processing SUSHI in Retail Operations – Hunan Gourmet

ceed with replacing the distribution box, rebalance the flow, and inspect it again in six months or prior to the sale. Mr. Quinn explained again that the failed leach pit is not leaching at all. He suggested pumping it out and filling it with sand.

On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted in the matter of 11 Sparrowhawk Road to replace the distribution box, keep both systems open for the next six months or until the sale. Inspect it in six months if it hasn't sold. If it has sold, at the time of the sale the owners can come back to us and ask for a new model. The vote was 4-0-0.


Other Business

A reporter for WXTK requested an update on the discussion of the Regulation for the Sale and use of Tobacco and Nicotine Delivery Products. Attorney Taylor suggested that she could have a digital copy of the meeting with the public hearing at the beginning. In addition he gave her a synopsis of the Regulation.

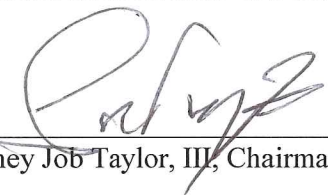
Agenda Item 17 – Adjournment

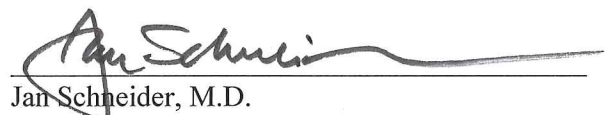
On a motion by Attorney Taylor and seconded by Mrs. McKusick, the Board of Health voted to adjourn this meeting at 4:05 p.m. The vote was 4-0-0.

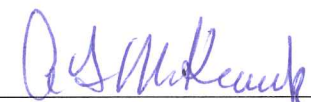
Respectfully submitted,

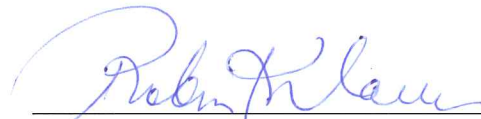

Lynda M. Burwell, Board Secretary

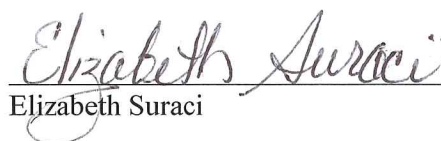
ORLEANS BOARD OF HEALTH



Attorney Job Taylor, III, Chairman


Jan Schneider, M.D.


Augusta F. McKusick, Vice Chairman


Robin K. Davis, Ph.D.


Elizabeth Suraci


Date Approved/Accepted