

ARTICLE 68 WORK GROUP

Meeting of Tuesday, April 3, 2012, at 10:30 am
Conference Room at 2 Fairgrounds Road

Final Minutes*

Attendance: Cormac Collier, Caroline Ellis, Bam LaFarge (left at 11:10 and returned at 11:25 am), Mark Lucas, Seth Rutherford, Lee Saperstein, Lucinda Young

Absent: Peter Boyce, Dave Fronzuto, Wendy McCrae, Mike Misurelli, Richard Ray, Ernie Steinauer

Call to order: A quorum was established when the seventh member entered the room and the meeting was called to order at 10:39 am by Lee Saperstein, Chair, *pro tem*.

Approval of Agenda and Minutes of the meeting of March 5, 2012: The agenda for this meeting and the minutes of the previous meeting were approved by acclamation.

Chair's Announcements; Comments from Work Group Members: The landscapers' workshop organized by the Nantucket Land Council and its Executive Director, Cormac Collier, and held on Tuesday, March 13, 2012, was noted by all who attended as successful and, perhaps, the best educational workshop to be held on Nantucket.

Lee Saperstein commented that Article 77 of the Annual Town Meeting, our Home Rule Petition, sailed through un-called and thus passed unanimously in the final vote of the day on Saturday, March 31, 2012.

Progress of Board of Health Regulation: With respect to the Board of Health Regulation, Lee Saperstein commented that Town Counsel had suggested amendments to it that strengthened its connection to water quality and that emphasized that the Regulation was a response to the legislative mandate that Nantucket find ways to keep its waters below the Total Maximum Daily Load, TMDL, thresholds defined in the Massachusetts Estuaries Plan reports. He noted that none of Counsel's changes affected the Work Group's proposals for fertilizer application. A copy of the final draft regulation was circulated and it had been distributed to the members earlier by e-mail.

Board of Health Adoption of Proposed Regulation: Saperstein noted that the Board of Health would proceed with the following steps to formalize and adopt the proposed Regulation:

- i. Formal preliminary adoption in meeting of Thursday, April 12, 2012;
- ii. Public announcements in newspaper of record for two successive weeks;
- iii. Public hearing no sooner than four weeks after first adoption, Thursday, May 10, 2012;
- iv. If there are no public comments requiring formal response, then the Regulation may be voted for final approval at this meeting;

v. Formal responses and possible amendments needed to respond to comments and criticisms may extend the review period.

Final Report to Board of Selectmen: The Work Group then discussed the contents of a final report to the Board of Selectmen. The shape of this report is determined by the charge from the Board when it created the Work Group.

“Charge:

- To recommend constructive changes in perfecting the language of the proposed legislation for Article 68 of the 2010 Annual Town Meeting (Home Rule Petition: An Act Regulating the Content and Application of Fertilizer Used in the Town of Nantucket);
- to develop a comprehensive plan to reduce the amount of nitrogen and phosphorus in our waters, including legislative action, whether a refined home-rule petition and/or a bylaw amendment, and other relevant actions contained in the Harbors Action Plan;
- to develop an implementation action plan with roles and responsibilities specifically delineated, as well as measurements of effectiveness for ongoing assessment; and
- to develop a timeframe and a budget.”

To facilitate conversation, Lee Saperstein had listed a number of recommendations on the draft agenda. While not always separately identified, group members contributed greatly to this discussion.

Charges 1 and 2. Regulation: A significant part of the efforts of the Work Group were in response to the first two bullet points of the Charge: final drafts of a Home-Rule Petition, a proposed Board of Health Regulation, and a manual for “Best Management Practices for Landscape Fertilizer Use on Nantucket Island.” Lee Saperstein noted that these have been transmitted to the Board in substantial fulfillment of items one and two in their charge. Because of draft State-wide legislation on fertilizer control, the so-called “Brewer” Bill, it is recommended that the Town forward the Home-Rule Petition as soon as possible so that our response to the water-quality mandate is recognized.

Charge 3. Implementation: The Department of Health, under the aegis of the Board of Health, is recognized within the Regulation as the party responsible for implementation. The Work Group has a sequence of recommendations to the Department of Health in support of effective implementation of fertilizer application control. These recommendations, including any draft materials attached to these minutes, are meant to fulfill the balance of the implementation charge.

- Publish the BMP, with final version of the Regulation as an appendix, in paper and digital formats. Publishing and printing costs, while not great, are real and should be considered by the Department of Health in its budget. Several members noted that the BMP will benefit Nantucket for many years to come but that maintaining its currency should not be forgotten.
- Create an Advisory Board of four or five members selected from people knowledgeable of the issues of nutrient contamination from fertilizer; work group members are encouraged to contact Richard Ray, Director of Health, to volunteer or to nominate knowledgeable people.

- Establish a fertilizer page in the Departmental web site to include the BMP, background reference lists (such as the List of Common Documents), videos of live educational presentations, and a web log for comments and questions. It is realized that fulfillment of this recommendation will take on-going effort from someone such as the suggested educational coordinator.
- Develop educational materials for the HPIC Blue Pages; point-of-sale homeowner brochures; and pocket card with abbreviated copy of the performance standards and guidance for mowing and irrigation and a ruler. Bam LaFarge said that summary materials from our BMP were transmitted to Peter Brace, editor of the “Blue Pages,” but that someone would need to review it when it was written. Caroline Ellis initiated a homeowner brochure and several Work Group Members contributed to it; the last section on native plants created some discussion. In the end, it was decided to leave the material in the brochure. She also volunteered to provide a draft of the pocket card. Mark Lucas suggested, based on comments that he had received, that a separate brochure on “spoon feeding” might come in handy. Cormac Collier suggested that we might want to consider an educational program for fertilizer vendors so that they could advise customers appropriately. As mentioned below, this could be a workshop based on the BMP.
- Use members of the Advisory Committee and former members of the Article 68 Work Group to host continuing live educational sessions for the Nantucket Garden Club, fertilizer vendors, landscape professionals, and homeowners in general. Videos of the best of these presentations should go onto the web site;
- The presentation to landscapers should be organized so as to be acceptable as Professional Development Hours for licensure;
- Develop Spanish language versions of the handouts. Mark Lucas suggested that there were a number of people in Nantucket schools who could organize such translations, perhaps even as student language projects.
- Educational coordinator: The Work Group recognizes that the above suggestions may add a substantial work load to the Department of Health and, therefore, suggests the addition of an educational coordinator to the staff of the Department.

Charge 3. Effectiveness: in fulfillment of this part of the charge, Impact Studies (“measurements of effectiveness”), the Work Group recommends that the Department of Health:

- Establish or maintain liaison with the Estuaries Project personnel and the Massachusetts Department of Environmental Protection for compliance with Total Daily Maximum Loads, TDML, for N and P;
- Continue Town water quality surveys for N and P.

Charge 4. Schedule and Budget: The Work Group recommends to the Department of Health that implementation begin in the calendar year 2013, which would allow existing stocks of fertilizer to be used this summer and for appropriate stocks to be ordered for the growing season that begins on April 15, 2013. As noted above, the Work Group recommends that a budgetary position be created in the Department of Health to afford an educational coordinator to be responsible for the implementation items mentioned above.

Additional Recommendations: The work group also discussed two other recommendations that they believe to be very important but that do not necessarily fit within the scope of the charge.

- **Soil Tests:** Because the BMP recommends continuing tests for soil quality (“the soil test”), it is recommended that the Department of Health determine if a soil testing laboratory will establish a presence here on the Island. “Presence” could mean an on-Island laboratory or, more realistically, an identified sample drop-off station or even a sampling service.
- **Compost from Nantucket’s Waste Recycling Facility:** To comply with the BMP recommendations on the use of compost, it is recommended that the Department of Health or the Department of Public Works provide current values for N, P, and K in the compost and remove trash (glass and plastic) and weed seed from the compost.

New Business: There were no items of new business. Lucinda Young, Chair Emerita, however, complimented the group on its efforts and noted that it had been almost two years since we began. She also suggested that we get together one last time in an informal, off-the-record social meeting that she will organize.

Adjournment and move to dissolve the Work Group: When Bam LaFarge suggested that he had to leave for another engagement but that he would return; Lee Saperstein suggested that we take the move to dissolve out of order so that it would be dealt with while we still had a quorum. Bam LaFarge moved at 11:03 am that we recommend to the Board of Selectmen dissolution of the Work Group; Mark Lucas seconded it and all concurred.

Lee Saperstein said that he would circulate the draft minutes to receive comments before posting them. He also said that he would convert the minutes into a formal, final report to the Board and that he would circulate that as well for comments before submitting it to the BOS. Transmission of our formal recommendation to dissolve will be accompanied by the final report. He was asked if we would need to make a live presentation to the BOS and he responded that he doubted it; he would not be asking for one but would accede to the Board’s wishes if they wanted one. Caroline Ellis and Lucinda Young will continue to work on the draft educational materials and, if received in time, their efforts will be attached to this draft.

Mr. LaFarge did return in time to concur with the move to adjourn, which occurred at 11:42 am.

Lee W. Saperstein, Secretary

*This is the final meeting of the Article 68 Work Group. Although members had an opportunity to review the draft minutes for this meeting, there is no opportunity to vote in an open meeting to approve them. These may be considered as the final, draft minutes.