



BOARD OF HEALTH Meeting

Town of Nantucket
3 East Chestnut Street
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Commissioners: Stephen Visco (chair), Malcolm MacNab, MD, PHD (Vice chair), James Cooper, Meredith Lepore, Melissa Murphy
Staff: Roberto Santamaria, Artell Crowley, Kathy LaFavre, John Hedden, Anne Barrett, Madison Humphrey

~~ MINUTES ~~

Thursday, November 19, 2020

This meeting was held via remote participation using ZOOM and YouTube,

Pursuant to Governor Baker's March 12, 2020 Order Regarding Open Meeting Law

Called to order at 3:00 p.m.

Staff in attendance: R. Santamaria, Health Director; E. Gibson, Town Manager; Chief of Police William Pittman; T. Norton, Town Minutes Taker

Attending Members: Stephen Visco; Malcolm MacNab, MD, PHD; James Cooper; Meredith Lepore; Melissa Murphy, Select Board

Early Departure: Melissa Murphy, 4:17 p.m.

Other Speakers: Julia Lindner, Executive Director ACK Now; Bill Grieder, President Madaket Homeowners Association; Ayesha Khan; Bob Liddle, Nantucket Builders Association (NBA) Board of Directors; Dawn Hill Holdgate, Chair Select Board

I. ANNOUNCEMENTS

II. PUBLIC COMMENTS – ANY MEMBER OF THE PUBLIC MAY ADDRESS COMMISSIONERS AT THIS TIME

Lepore – Megan Perry has asked why we can't get attestations from people getting off the boat who come over to work for the day. She feels we should be able to do this. If someone tests positive off Island, it's hard for contact tracing.

Gibson – Doesn't know where else attestations are being required for people coming off the boat. Town Administration talked a lot about this early on: one primary obstacle is lack of resources to administer a program a question being would it be done at the boat docks and would be done on Nantucket or in Hyannis and lastly who would do it, Town or ferry lines. If the BOH wants Department of Health or Town Administration to look into what it would take logistically, we are willing to do so; however, it would take a lot of people and those resources are not available. Also, divulging information would be voluntary.

Murphy – This is something that should be on the next agenda. Doesn't think a discussion is appropriate under Public Comment.

II. ACK NOW SHORT-TERM RENTAL PRESENTATION

Lindner – Introduced ACK Now, mission and vision. Looking at short-term rentals, Nantucket currently has 2000 registered with the State which have an impact on housing and transportation. Over the last 10 years, short-term rental ownership shifted from year-round residents to off-Island investors; only about 21% are locally owned. The concern is investors buying into the market have an impact on how property is developed, the impact on the cost of year-round housing, and the impact on neighborhoods. Nantucket has the ability to legalize and regulate short-term rentals through a bylaw. In 2019, we saw expansion of the lodging tax to short-term rentals. Our proposed bylaw would be considered at the next Annual Town Meeting (ATM) and would provide protection to housing and neighborhoods. Our bylaw would allow Island-resident owned, short-term rentals to rent cumulatively up to 12 weeks a year. We are also proposing an occupancy limit. We believe with BOH and the Department of Health support and a short-term-rental compliance software, we can have effective enforcement over time. We want to attract people to the Island who want to spend time here, get to know their neighbors, and protect neighborhoods.

MacNab – Asked who would enforce it; it would take time, resources, and people none of which the Health Department has.

Lindner – It would be the Health Department. Mr. Santamaria acknowledged an inspection, which would be a big burden, is not part of the permitting process. Town has been dedicating resources to this for a number of years without off-setting funding. This would acknowledge those resources and make funding necessary.

MacNab – Lack of affordable housing leads to overcrowding; it's certainly a health issue, not just economic. We keep putting more and more on Mr. Santamaria and his limited staff; funding would have to be part of the warrant.

Santamaria – We respond to all complaints. Our impression is most of the trouble occurs toward the end of the stay. Sometimes when we get there, the place is a mess; we do issue enforcement orders, but we don't get money from the fines since they go into the General Fund.

Lindner – We considered creating a revolver fund.

Cooper – Regarding the 45-day rental for off-Islanders, asked if that is to discourage people from investment buying.

Lindner – The question is how to disincentivize a company that wants to operate a short-term rental business. You can't regulation ownership, but you can regulate how property is used; limiting the number of days disincentives a certain type of use.

Murphy – One concern is the actual number of properties owned by corporate entities; she's concerned this is solving a small problem. She's also concerned about the number of people who make investments and rely on seasonal income to pay for what becomes their retirement home. She doesn't want to block out people investing in their future. She spent time with Mr. Santamaria talking about the registration process to help the Town; she very much supports that part of the process.

Lindner – Those concerns are valid. We agree that all LLCs and Trusts aren't necessarily investors. What's not clear is identifying whether or not a person uses their property; a trend we're seeing is that how a property is developed is an indication of who the target use is. We're not trying to tell someone that they can't and shouldn't rent their home; the reality is the window for the traditional vacation rental is not 14 weeks.

Murphy – There are a lot of off-season rental opportunities, and she's uncomfortable with limiting the rental time-frame. She will look forward to feedback from 2nd-home owners.

Visco – Thanked Ms. Lindner for the presentation.

III. PFAS DISCUSSION

Visco – This is here due to information that came across last week in an email. In no way was the BOH or Town trying to suppress information.

Santamaria – He forwarded the memo from C.M. Smith, our PFAS consultant. Expect that report next week. We have a joint Select Board-BOH meeting scheduled for December 9th. Right now, we don't have all the information and some of that is inaccurate information.

Lepore – Asked why it has taken so long for this information to come out. The news came out in April, but water testing didn't start until late July. It feels like the Town isn't being fully transparent.

Santamaria – We are trying to get the information out as soon as we receive it; some of it is incomplete. We are also coordinating between two separate entities – the Town and the Airport and the two respective counsels.

MacNab – There is some angst, but the information is preliminary, and the methodology might not be correct. However, this is still an issue. It's important it is brought up, so we don't forget about it. It could have been handled differently; now we have to make sure the public knows all the information.

Cooper – He wants to know that for the next meeting the board will have all the information.

Santamaria – We expect the report and all pertinent information before the next meeting.

Grieder – Wants to note the discovery at the Airport is the tip of the iceberg. The Water Department took it upon themselves to test for PFAS on their property. Given all the information, we take the contamination from PFAS around the landfill very seriously. Even though there are no regulations or requirements for testing the landfill, there are guidelines.

Gibson – It is underway; we are going to do testing per the Department of Environmental Protection (DEP) requirements. This is very complicated beyond just doing a test. As soon as we learned about the Airport, we initiated the Island-wide Risk Assessment without being required to. She doesn't know how much more transparent the Town could be.

Murphy – There is a dedicated taskforce looking at this, prioritizing this, and working with the Airport. When there is more information, that will be shared. This is a top priority across the board. The remediation/mitigation efforts are going to be very expensive.

Lepore – Martha’s Vineyard and Barnstable are having this problem. Asked if we are collaborating with them. This is a huge issue and she was upset the April report didn’t come out until July.

Gibson – That was an Airport report. When Barnstable came to our attention, we arranged a call with them; a huge difference is their public water supply is contaminated and ours is not. We will have issues with contamination of soil and individual wells. If necessary, we can extend public water to risk areas.

Grieder – It’s not just the landfill but testing the tributaries around the landfill. It’s been noted and touted that a lot of their measures for redirecting runoff and leachate have reduced nitrate found in adjacent pond areas. He would think part of the process would include waterways around the landfill. The contract with the landfill is coming to an end, one would think a part of the discussion on the future would be the need for a different type of process to deal with destroying PFAS.

Gibson – That’s why it’s an Island-wide Risk Assessment. How PFAS would be removed has yet to be figured out.

Khan – On December 9th asked if the meeting would be to review the landfill, leachate and report.

Gibson – That will be the initial report on what we’ve discovered as potential sources to PFAS around the Island not related to the Airport. She didn’t expect this item to go this deep today or she would have had other department heads and project managers attend to speak.

Kahn – Asked if a pause would be made on the compost.

Gibson – That will be produced but not made available to the public.

Murphy – Asked if the report will be reviewed at a Select Board or a BOH meeting.

Santamaria – At the Select Board December 9th meeting, which is being posted as a joint BOH meeting. Our next regularly scheduled meeting is December 17th.

Murphy – Suggested it might be prudent to have a special BOH meeting on December 10th.

Gibson – We are thinking this might necessitate its own Select Board meeting; tentatively it is part of the December 7th agenda.

Hill Holdgate – Thinks it should be its own meeting.

IV. APPROVAL OF MINUTES

- 1. October 22, 2020
- 2. November 12, 2020

Action **Motion to Approve.** (made by: Cooper) (seconded)
 Roll-call vote Carried unanimously//Cooper, Lepore, MacNab, Murphy, and Visco-aye

VI. BOH APPLICATIONS REVIEW

- 1. Loan request: Fuller, 4 Kelley Road (54-28), septic to sewer
- Sitting Visco, MacNab, Cooper, Lepore, Murphy
 Documentation Supporting documents and plans, staff recommendations.
 Discussion Santamaria – Part of the Shimmo project
 Action **Motion to Approve.** (made by: Cooper) (seconded)
 Roll-call vote Carried unanimously//Cooper, Lepore, MacNab, Murphy, and Visco-aye

VII. CLARIFY I/A TO SEWER TIME FRAME

Visco – On September 17th, it was unclear in the minutes regarding the timeframe. Read the policy from October 2015; that policy set a 10-year grace period for any property owner would get 10 years from date of installation to use the I/A system before being required to connect to sewer if it becomes available. In our meeting last time, it wasn’t spelled out and was hard to interpret what the revised policy would be.

Cooper – He thought we gave everyone 15 years from September 17, 2020 regardless of when they put their I/A in.

Visco – In the minutes it was unclear how that was read. He wants to clarify that now.

Discussion on the motion.

- Action **On 9/17/2020 the Board amended this policy to 15 years for any property owner that installed an I/A and became subject to Local BOH Regulation 69 (mandatory connection to sewer). Part of the amendment to this policy gave all I/A septic system, that are already installed 15 years from 9/17/2020 should they become subject to Local Board of Health Regulation 69.00 (mandatory connection to sewer). Any I/A septic system installed after 9/17/2020 will get 15 years from the date on their Certificate of Compliance should they become subject to Local Board of Health Regulation 69.00 (mandatory connection to sewer). (made by: Murphy) (seconded)**
- Roll-call vote **Carried unanimously//Cooper, Lepore, MacNab, Murphy, and Visco-aye**

VIII. COVID-19 EMERGENCY ORDER

- Discussion **Santamaria – Had a meeting with NBA. (Bob and Frank Dailey) An enforcement plan will be added to this as appendices. We discussed Items 1-5; education, fines, and suspensions are the most important points. NBA is willing to open up COVID hotline to answer questions about best practices and questions on handling job sites properly. The fines are the same. Level 3 enforcement would be a 1-day suspension; level 4 would be a 2-week suspension.**
MacNab – Asked if there is input from landscaping.
Santamaria – There isn’t a central group for landscaping companies so have had trouble talking to a large group of landscapers.
Lepore – Asked for clarification on the enforcement levels. We are past the education point now.
Santamaria – When we voted in Order 14, we elected to go with \$300 fine. The hotline would be a self-policing entity.
Cooper – He doesn’t see why anyone should have more than 1 shot at this. If you don’t know by now that you’re supposed to wear the mask, violators should not be given any more chances. Some people are not going to do it.
Santamaria – Told Mr. Cooper to come get a ticket book; he’s allowed to enforce this as a BOH member.
Liddle – In our discussion, the NBA Board of Directors were clear our members are very compliant and invested in the community. It’s the folks commuting from other communities and scofflaws. The theory is any Director will know the offender and can address it; if they blow it off, then we pass it over to Mr. Santamaria. Maybe we can conjure cooperative spirit with the off-Islanders.
Visco – That was a good meeting and the NBA was very sincere.
Liddle – People don’t like to be published in the newspaper for misbehaving; if a company is blowing off the rules, publishing their name can have a huge impact on their reputation. Folks who are playing by the rules should be able to continue doing what they’re doing.
- Action **Motion to Accept the NBA recommendations into Emergency Order 14. (made by: Cooper) (seconded)**
- Roll-call vote **Carried 4-0//MacNab, Cooper, Lepore, and Visco-aye**

IX. BOH BUSINESS

- 1. **MacNab – Asked what our COVID percentage is.**
Santamaria – Today we’re classified in the Red Zone. If future sewer reports show the trend going down, that could change. The most recent sewer report shows 1-5 new cases per day.
MacNab – He’s glad that’s going back down. If he sees the percentage go back up, we should ask for a shut down.

X. ADDITIONAL DOCUMENTS USED

1. Draft BOH Minutes October 22 & November 12, 2020
2. ACK Now PowerPoint presentation.
3. I/A grace-period policy
4. Regulation 69.00
5. Draft Emergency Order 14.
6. Surfside Wastewater Treatment Plant testing report.

XI. ADJOURN

Action **Motion to adjourn at 4:34 p.m.** (made by: Cooper) (seconded)
Roll-call vote Carried 4-0//MacNab, Lepore, Cooper, and Visco-aye

Submitted by:
Terry L. Norton