1. Board Of Health Packet

   Documents:
   
   BOHMIN20200618.PDF
   BOHMIN20200629 COVID.PDF
   167 RAW VARIANCE 6.25.20.PDF
   MADAKET HARBOR PROTECTION.PDF
   REG 51 - AMENDED.PDF
Thursday, June 18, 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 1:00 p.m. by Mr. Visco

Staff in attendance: R. Santamaria, Health Director; A. Crowley, Assistant Health Director; Rob McNeil, Director DPW

Attending Members: Stephen Visco; Malcolm MacNab, MD, PHD; James Cooper; Melissa Murphy, Select Board (not voting)

Absent Members: Helene Weld, RN

I. ANNOUNCEMENTS

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

1. Andrew Bazos, MD, CrowdRx™ Game On! – Explained the goals of CrowdRx™. Through this group, he’s looking to help the Island as best he can; presented ways his group can help screen, detect, and track COVID-19 at heavily-trafficked areas and for employers. We are led by doctors and want to share what we’ve learned.

   Santamaria – This is a program we could add to our public health toolbox. The problem would be funding.

   MacNab – About thermal screening, we will still miss a lot of people. Asked if it is worth that effort. Asked if there is a trial regarding detecting oxygen saturation.

   Bazos – 70% of people have no fever; it isn’t definitive or conclusive, but thermal screening adds a layer of defense. He read in a journal that the sleeping respiratory rate increases 3 days before onset of symptoms, but there is no way to test that. Mr. Santamaria has his email and he’ll be on Island over the weekend; he’s available for any questions.

III. DIRECTOR’S REPORT

1. Presented his COVID-19 written report: PCR tested 1,139 with 0 positives, state metrics adapted for Nantucket. COVID Educators will soon be available. We are seeing a lot of visitors without masks downtown; the Educators will be able to supply a mask.

   MacNab – Asked about testing Landmark House and Academy Hill.

   Murphy – Asked if the definition of high-risk workers will change as we open up more. With the State metrics, asked if Nantucket is monitoring the Cape and State hospitals.

   Santamaria – Yes to both. We daily refer to the Massachusetts Department of Public Health (DPH) dashboard on state-wide readiness.

   Cooper – Asked how long Our Island Home will be self-quarantined.

   Santamaria – A big portion of keeping the numbers down is the quarantine of visitors. We monitor those states with high COVID numbers. We still recommend Our Island Home stay closed to visitors.
IV. APPROVAL OF MINUTES

1. May 21 and June 4, 2020
   Action **Motion to Approve.** (made by: Cooper) (seconded)
   Roll-call Vote Carried 3-0//Cooper, MacNab, and Visco-aye

V. BOH APPLICATIONS REVIEW

1. Fee waiver request: Department of Public Works, 7 Nobadeer Farm Road, field house
   Sitting Visco, MacNab, Cooper
   Documentation Supporting documents and plans, staff recommendations.
   Discussion **Santamaria** – Septic would increase the comfort and use of the fieldhouse. Recommend granting
   the fee waiver for the Town.
   **McNeil** – The field house is concrete slab, open floor, covered porch, and 3 bathrooms.
   Action **Motion to Grant the fee waiver.** (made by: Cooper) (seconded)
   Roll-call Vote Carried 3-0//Cooper, MacNab, and Visco-aye

2. Loan Name Change: Gallagher to Nantucket Shell, LLC
   Sitting Visco, MacNab, Cooper, Weld, Higgins
   Documentation Supporting documents and plans, staff recommendations.
   Discussion **Santamaria** – The loan is recorded on the property, which is moving into an LLC. Need a formal
   vote to accept the name change.
   Action **Motion to Approve the change as requested.** (made by: Cooper) (seconded)
   Roll-call Vote Carried 3-0//Cooper, MacNab, and Visco-aye

3. Variance request: Farmer’s Market, allowance of non-food vendors
   Sitting Visco, MacNab, Cooper, Weld, Higgins
   Documentation Supporting documents and plans, staff recommendations.
   Discussion **Santamaria** – They have always had food vendors; this year the State COVID Phase II will allow
   non-food vendors with approval from the local BOH.
   Action **Motion to Grant the Variance as requested.** (made by: MacNab) (seconded)
   Roll-call Vote Carried 3-0//Cooper, MacNab, and Visco-aye

4. Variance request: Taproom, food code (no specific sections listed)
   WITHDRAWN

VI. BOH UPDATES AND CONCERNS

1. **McNeil** – Invited the Board members to reach out to him to schedule a tour of the landfill.
2. **MacNab** – Thinks it’s great we have the lowest COVID numbers in the State; however, we have the highest
   Tick-Borne disease numbers. He’s willing to draft a letter to the editor to remind the public to protect against and
   look for ticks after walks.
   **Santamaria** – A letter to the editor would be good; he’ll do a pamphlet push to the Airport, Steamship Authority,
   and Hyline offices. Due to the mild winter, the ticks will be more active this summer.
3. **Santamaria** – Meredith Lepore was appointed to replace Helen Weld. Thanked Ms. Weld for her time on the
   Board. Next meeting is July 16th at 4 p.m.; that will include the Regulation 51 public hearing.
4. **Murphy** – Asked about CrowdRx™ since it was their first presentation. She worries about the timing; starting in
   the next week or two, the population will increase with people coming here from high-impact areas.
   **Santamaria** – They are currently doing the PRC testing on Island. We have to decide what sort of program we
   would be looking at; however, getting Town Funding for screening will be very difficult.
   **MacNab** – He thinks their screening program would be great for a private organization but not the Town since
   so many infected people could be missed.
VII. ADDITIONAL DOCUMENTS USED
1. Draft BOH Minutes
2. CrowdRx™ Game On! PowerPoint presentation.
3. Health Department written COVID-19 report
4. Mass DPH Dashboard of Public Health Indicators

VIII. ADJOURN

Motion to Adjourn at 1:57 p.m. (made by: Cooper) (seconded)
Carried unanimously//Cooper, MacNab, and Visco-aye

Submitted by:
Terry L. Norton
Proposed Minutes for June 29, 2020

BOARD OF HEALTH
Emergency Joint Meeting
with Select Board
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; Helene Weld, RN, PHD; Melissa Murphy Select Board

Staff: Roberto Santamaria, Artell Crowley, Kathy LaFavre, Anne Barrett, Hank Ross

~~ MINUTES ~~

Monday, June 29, 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 12:30 p.m. by Mr. Visco

Announcements

Staff: Santamaria, Health Director; David Gray, Director Sewer; Chief William Pittman, Nantucket Police Department; Rachel Day, Assistant Town Manager

Attending Members: Stephen Visco, Chair; Malcolm MacNab, Vice chair; James Cooper; Melissa Murphy

Absent Members: Helene Weld

Town Counsel: Gregg Corbo, K&P

Documents Used: Emergency Order No. 12; June 8th Sewer Report; Town of Nantucket GIS Map Sheet; COVID Wear a Mask card sample

Agenda adopted by unanimous consent

I. REVIEW/VOTE ON EMERGENCY ORDER No. 12 (MANDATORY FACE MASKS)

Discussion

Santamaria – With the four new cases, we looked into the increasing evidence how the masks stop the spread of COVID 19. We are also seeing a significant number of people not cooperating with the Governor’s order to wear masks. This order will give us the ability to delegate authority for enforcement and outreach regarding use of masks. Mr. Gray will discuss the biobot report on the June 8th Sewer Report. These reports are indicative of what is to come. COVID 19 is being found on people shedding it in their waste. The 16 people cited in the report could spread up to 32 more people on that day alone. It is more important that we have the ability to enforce the Governor’s order. We want to get people out there encouraging downtown visitors to wear masks. This order will be enforced upon all Town employees.

Gray – Last sample went out June 23rd and will sample again around July 6 or 7 then every two weeks. This is a forecast of what is out there and is another tool in the toolbox. This waste stream includes all waste we get over a 24-hour period.

MacNab – If we look at the number of tests, we are getting more than we thought.

Santamaria – They put that metric into the report; it says 0.92% incident rate, which is very good. This could be included as Metric 7 but dovetailed with Metric 1; Metric 2 presents only positive cases.

MacNab – He’s getting nervous about more restrictions beyond masks. Asked the difference between the local order and the State order.

Santamaria – The more people use masks, the lower the number will be. The State order makes the Health Department the sole enforcer; we don’t have the staff for that. Our order requires masks at all times on Main Street regardless of social distancing.

Visco – He thinks the numbers could be even higher than indicated.
Santamaria – The good news is if the numbers are tripled, we are 2.7%, which is still under the 10%.

Murphy – Agrees on the adding the metrics to our list. She thinks the ratio is important. She understands that we are prepared to have some incidents of COVID and that is why we need sampling. In her mind this order isn’t a reaction to numbers but a response to irresponsible behavior and is a way to support our business community. We need to find a way for our community to safely live with COVID 19. Asked if the samples will continue to take 2 or 3 weeks.

Gray – They say 5-7 days, but they are testing nationally as well. They promise the results will come back quicker.

Murphy – Not sure how we use historical data to influence policy.

Cooper – If we agree on this, asked how the enforcement would be done.

Santamaria – That is the biggest question. Moving to the Order itself, No. 8 states the Order will be enforced by the Health Department, NPD, Natural Resources, Building Inspectors, and other agents to the Board. The Agents job will be to observe and report: gain information for who to send warning letters and tickets by Health Department staff. At the minimum, they ask people to put on masks without getting into any confrontations. We will try to lead by example by having all Town employees wearing masks.

Cooper – Asked if local business will have masks available for people who want to go into the store.

Santamaria – Some businesses are doing that. We’ve ordered a lot of masks to have them available for people on the streets.

Murphy – She’s confused about how enforcement will work: practicality, enforcement officers, range of fines. Denise Kronau has asked her if other municipalities using a similar enforcement model. A follow up to ticketing is will we issue warnings and how do we know if we are approaching a 3rd ticket.

Santamaria – The tickets are non-criminal disposition: 1st a warning then with each infraction after that fines up to $300 – Nr. 10 and Nr. 11 address ticketing and fines. We don’t have a System to log violations into the computer; we have an internal database, so Staff will know. Provincetown has a mask order, but he doesn’t know how they are enforcing it.

Pittman – Enforcement is his biggest concern; a bad enforcement mechanism equals no enforcement and he sees no way to make this a good process. Business owners are our best chance of success be refusing entry for no mask. Police can’t issue tickets, but we can assist in the event of a disturbance. If someone is questioned for not wearing masks, we are creating a record for that individual in our system and will have an adverse impact on minorities and could be perceived as anti-visitor. We are employing education on people but we’re encountering a tremendous amount of resistance. He’s had meetings with Cape Chiefs and most Massachusetts Chiefs; we don’t want to become the mask police. Business should take responsibility. Our Summer Special Cops don’t have the authority to issue tickets. Should have banners all over Town stating masks are required.

Murphy – She wonders if this Emergency Order requiring masks downtown gives businesses reinforcement of their policies. Loves the ideas of signs and banners to reinforce that message. She’s concerned about vigilantism. We need to rely on education on why masks are required downtown.

Santamaria – We are in the process of ordering huge signs and setting up a volunteer group to help prevent vigilantism.

Corbo – He has worked on a number of these regulations and policies; his experience has been similar to what was described, and this is not a police matter. Having police involved in enforcement could escalate the situation. The Order as written provides another tool for the educational toolbox in getting people to comply with wearing a mask. Enforcement is when nothing else works; that next step is issuance of tickets to individuals and businesses. Any business with a Town license, those licenses could be at risk if the business fails to comply. He would never suggest a lay person put themselves in physical jeopardy; they aren’t trained to deescalate a situation. Adopting this as an
Order sends a message of how important and serious the situation is by indicating this is a legal requirement on Nantucket.

**Cooper** – Asked if there is thought of going to the Steamship and Hyline ticket office and the Marina asking them to put of signs indicating masks are required in the core districts.

**Santamaria** – Absolutely; there has been a lot of discussion about where to put the signs: Steamship, Hyline, and Airport being top priority for the 38X48 signs.

**Day** – The banners will be about 5X8 feet and will be utilized at larger locations; we have five 38X48 signs. One considered location is the visitors’ kiosk at Straight Wharf and other high-visibility locations downtown and noted other locations to include the landfill.

**Murphy** – The question has come up why this has to be an emergency order enacted today versus going through a public hearing. Asked also about how the police are responding to parties and gatherings.

**Pittman** – There are a lot of incident calls to large groups with no masks; any enforcement would be about the large noise or criminal behavior. There’s been a lot of talk about the “core”; this order is for the historic district, which is significantly larger than just the core.

**Santamaria** – We can alter the wording for whatever is more tenable; I used the historic district because that boundary had already been created. This is an Emergency Order because if only 8 people are showing symptoms today, every one of those people can infect two people; if they infect only one person today, that’s 16 people, in three days that’s 32 people, in six days that’s 64, in nine days that’s 128 people, in twelve days that 256, and 15 days out that’s 512 people infected. Using a conservative death rate of 1%, that’s 5 people can die. The four cases from last week could result in 128 cases with 1 death if they infect only one person each. Saving one life is enough for him to make this an emergency.

**Visco** – He’d be willing to look at the historic district, which encompasses a very large area; he’d be willing to reduce it to the core district for Town and ‘Sconset. There is a public announcement on every boat every time you come around Brant Point.

**Murphy** – Asked to see the map showing the boundaries.

**Santamaria** – If we want to change the area, we have to set the bounds and make a new map.

**MacNab** – He sees no reason to change the proposed boundaries to make it smaller.

**Corbo** – Exceptions are important: children and persons unable to wear a mask due to physical disability or medical reason; if a person asserts they can’t wear a mask for medical reasons, you can’t ask them what that condition is without being exposed to liability. Before the Board proceeds to a vote, noted some changes to the document. For non-criminal tickets, you have to lay out the fines for each offense.

**Visco** – He’s fine with the historic district.

**Santamaria** – Read public comments: Mary Longacre feels the core area would be too small and asked to remind people to put used masks and gloves in the trash; Michelle Whelan has seen in ‘Sconset a lot of maskless people; Marianne Haigley asked how to volunteer as a COVID Educator and noted it’s not people going into retail but folks walking around the street with no mask and no social distancing; and Meagan Browers asked if police and Summer Specials can hand out masks and signs should be in Spanish and English on every post and street corner. We are translating the signs and creating signs you are entering a mask zone.

**Pittman** – We don’t have “Summer Specials” we have Parking Enforcement people who could only have a limited number; Police officers have masks in their cruisers. We only have 3 officers on duty at time for the whole Island and they aren’t out looking for people not wearing signs. To do that we’d have to create overtime for that additional duty.

**Cooper** – We know we won’t get everybody; the extra people we can get to wear masks will help. He’s ready to move forward with this.

**Santamaria** – Burt Wrights doesn’t want people to be fined. We will fine in only the most egregious cases.
Murphy – Asked for a follow up at the Select Board meeting on how enforcement is going and how we are interacting with folks.

Santamaria – He’ll add this to his weekly COVID update. The 4th of July weekend is a huge test-case for us.

Murphy – She has been contacted by folks in the Real Estate Association if there is information they can send to clients thinking of coming here and how to be here safely without quarantining.

Santamaria – The Summer 2020 link is our biggest way to put out information.

Day – That is where the most information is located; we are developing a video about wearing a mask which will be shared with businesses to put on their websites.

Action
Motion to Accept Emergency Order 12. (made by: MacNab) (seconded)
Roll-call Vote Carried unanimously: MacNab-aye; Cooper-aye; Murphy-aye; Visco-aye

Action
Motion the Implementation Date be June 30 by midnight. (made by: MacNab) (seconded)
Roll-call Vote Carried unanimously: MacNab-aye; Cooper-aye; Murphy-aye; Visco-aye

Motion to adjourn the BOH meeting 1:39 p.m. (made by: ) (second)
Carried unanimously by roll-call vote: MacNab-aye; Cooper-aye; Murphy-aye; Visco-aye

Submitted by:
Terry L. Norton
I am requesting: (Check one.)

☑️ A variance of a Local Board of Health Regulation

☐ A variance of a State Public Health Regulation (310 CMR 15, 105 CMR 590, etc…)

Please write an explanation of the variance requested (use separate paper if needed):

Request for food deliveries to be brought to 167 Raw Market.

Items that need to be brought to Commissary kitchen will be delivered by refrigerated van. This variance will allow the packaged items to be placed directly into the market to be sold.

Requestor Name: Ashley Mulvey

Company Name: (if applicable) 167 Raw

Address: 167 Hommock Pond Rd

MAP: PARCEL:

Phone No.: 617-943-6545

Fax No.: 

Email: ashley@167raw.com

Requestor’s Signature: Ashley Mulvey

Date: 6/25/20

Please be advised that the Health Department accepts variance requests up to one week before a scheduled Board of Health meeting. Applications received after this deadline will be placed at the subsequent scheduled meeting.

Received by: ___________________________ Date: ___________________________
In order to preserve, protect, and manage the quality and supply of fresh water, and to protect the health and welfare of the inhabitants of the town of Nantucket, the following regulations are hereby adopted by the Board of Health of the Town of Nantucket, pursuant to authority granted by General Laws, Chapter 111, Section 31 on September 19, 1973, to be effective upon publication.

51.01 SUBJECT AREA and DEFINITIONS

A. These Regulations shall be applicable in that part of the Town of Nantucket known as Madaket, more particularly described to be within the area defined by the GIS map titled “Madaket Harbor Protection District” found at https://nantucket-ma.gov/DocumentCenter/View/126/Madaket-Harbor-Protection?bidId=

B. The term “Conventional System” shall mean any On-Site Subsurface Sewage Disposal System that is not a tight tank or Innovative/Alternative System.

C. All other terms used in this Regulation shall be as defined in Local Regulation 50.00.

51.02 DISTANCES

A. In any part of said area where the percolation rate is two minutes or less per inch, the distance between the soil absorption system, and any potable water supply well, shall be one hundred and fifty feet, notwithstanding the fact that such a system or well is located on an adjacent lot of land.

B. The distance of a soil absorption system from a property line shall be fifty (50) feet. Where the property abuts a road way or other land restricted from building, the width of the road way or restricted land can be included as part
of the 50-foot set-back requirement. No soil absorption system may be located closer than 10 feet to any property line.

C. Every soil absorption system shall have a one hundred percent (100%) reserve area which shall be no closer than fifteen (15) feet to such a soil absorption system.

51.03 SYSTEM LOCATION ON LOT.

A. Every on site system and potable water supply well shall be on the same lot of land as the building, dwelling, facility, or structure which they serve.

51.04 CERTIFICATE OF COMPLIANCE & WATER TEST.

A. No well shall be connected to the water distribution system of any dwelling or other building without a Certificate of Compliance issued by the Board of Health that said potable well and water distribution system does not endanger the health of any potential user. Prior to the issuance of such a Certificate of Compliance, the applicant therefore shall provide the Board of Health with proof of a satisfactory bacteriological and chemical analysis of the water from such a well.

B. No Certificate of Compliance for On-site Subsurface Sewage Disposal Systems with one or more Nitrogen Reducing Technology component shall be issued without proof of the following filed with the Nantucket Health Department:
   a.) Active Operation & Maintenance (O&M) Agreement detailing the following:
      1. service and monitoring of proper system operation
      2. Laboratory testing of effluent at least two times per year
   b.) Deed notification of the presence of an Innovative/Alternative system
   c.) Title 5 compliant System As-Built plan stamped by a design engineer or land surveyor

51.05 Required Inspections within the Madaket Watershed Protection District

A. The owner of any property located within the Madaket Watershed Protection District Zones A & B, that is served by a Conventional System shall cause the
System to be inspected by a licensed Title 5 inspector by March 1, 2018, unless the System was inspected within five years prior to the effective date of this regulation. Inspection Reports shall be filed with the Nantucket Health Department.

B. Notwithstanding the provisions of Paragraph A hereof, all Systems shall be inspected as required by Title 5, including: at or within two years of the time of property transfer, upon new construction or increase in design flow of the facility served by the system; upon evidence of breakout or other signs of hydraulic failure; or upon order of the Board of Health.

51.06 Replacement of Conventional Systems within the Madaket Watershed Protection District

A. The owner of any property located within the Madaket Watershed Protection District Zones A & B shall connect to the municipal sewer system in accordance with Local Regulation 69, if sewer becomes available.

B. The owner of any property located within the Madaket Watershed Protection District Zones A & B, that is served by a Conventional System shall cause the System to be abandoned and replaced with a tight tank or other Innovative/Alternative system upon new construction, expansion of the facility served by the System, System expansion, any condition requiring repair or upgrade of the System, and/or transfers of property.

51.07 Madaket Watershed Protection District hydraulic & technical On-site Subsurface Sewage Disposal System failure replacement requirements.

A. Notwithstanding the provisions of Section 51.06, the owner of any property located within the Madaket Watershed Protection District Zones A & B, that is served by a Conventional System shall cause the System to be abandoned and replaced with a tight tank or other Innovative/Alternative System within six (6) months of a system inspection showing that the System is exhibiting hydraulic failure.

B. Notwithstanding the provisions of Section 51.06, the owner of any property located within the Madaket Watershed Protection District Zones A & B, that
is served by a Conventional System shall cause the System to be abandoned and replaced with a tight tank or other Innovative/Alternative System within twelve (12) months of a System inspection showing that the System has groundwater separation distances less than 6 feet.

C. Properties located within the Madaket Watershed Protection District Zones A & B demonstrating a separation distance from the bottom of the leach facility to ground water in excess of 15 feet may seek a variance from the Board of Health from these Regulations.

D. Nothing herein is intended to limit the authority of the Board of Health to require repair or replacement of any System at any time when the Board deems it necessary for the protection of public health, safety and the environment in accordance with Title 5 and/or any other Local Regulation.

51.08 SPECIAL VARIANCE

The Board of Health, in its sole discretion, may issue a variance from the strict application of these regulations, in accordance with the criteria set forth in Local Regulation 90.

51.09 ENFORCEMENT

A. Without limiting any other available remedies or penalties, the Board of Health and/or its agent may enforce this Regulation as set forth in Local Regulation 67.

51.10 Severability

A. In the event that any provision of these regulations is declared invalid or unenforceable for any reason, all other provisions will be unaffected and shall remain in full force and effect.
Malcolm W. MacNab, MD, Ph.D, Chair

Stephen J. Visco, Vice-Chair

J.W. Rick Atherton, Member

Helene M. Weld, Member

James Cooper, Member