



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, Helene Weld, RN, Rita Higgins
Staff: Roberto Santamaria, Artell Crowley, Kathy LaFavre, John Hedden, Anne Barrett, Hank Ross

~~ MINUTES ~~

Thursday, February 20, 2020

4 Fairgrounds Road, Community Room – 4:00 pm

Called to order at 4:00 p.m.

Staff in attendance: R. Santamaria, Health Director; Rob McNeil, Department of Public Works Director; Gregg Tivnan, Assistant Town Manager

Attending Members: Stephen Visco; Malcolm MacNab, MD, PHD; James Cooper; Helene Weld, RN

Absent Members: Rita Higgins, Select Board

Agenda adopted by unanimous consent

I. ANNOUNCEMENTS

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

1. None

III. APPROVAL OF MINUTES

1. None

IV. DIRECTOR'S REPORT

1. Overview of the written report: The last month had 741 tasks completed from annual reviews to 112 building permit reviews. Had a few complaint checks. 27 septic system reviews and evaluations.
2. He was appointed to the Local and Regional Public Health Advisory Committee by the State commissioner; had their first meeting. This is a public policy group that will set the workforce pipeline for the Public Health workforce in Massachusetts.
3. Influenza is still out there, and we need to keep paying attention: if you have a cough, wear a mask and stay home; call the doctor's office to phone in a prescription. This year's outbreak is particularly virulent. We are seeing predominantly Influenza B.
4. Continuing to meet with Island vendors about the plastics ban meeting; there will be a plastics forum on February 24th at Great Harbor Yacht Club at 1:00 p.m.
5. Genetic Mice Steering Committee met, and the charter was voted in; Dr. Malcomb MacNab is the chair and Dr. Emily Goldstein is the vice chair.
6. Prepping for Town Meeting at this point.
7. Starting next month, he will be presenting for the Human Services program as well.

V. BOH APPLICATIONS REVIEW

1. Loan increase request: Marsh, 24 Friendship Lane (56-338) increase by \$6,000
Sitting Visco, MacNab, Cooper, Weld
Documentation Supporting documents and plans, staff recommendations.
Discussion **Santamaria** – It needs to be increased because the actual work came in above what was initially anticipated. Nothing is out of the ordinary.
Action **Motion to Approve the increase.** (made by: Cooper) (seconded)
Vote Carried unanimously

2. Loan approval: Norris, 9 Bayberry Lane (67-62) septic to sewer
Sitting Visco, MacNab, Cooper, Weld
Documentation Supporting documents and plans, staff recommendations.
Discussion **Santamaria** – Straight forward; no objection.
Action **Motion to Approve.** (made by: Cooper) (seconded)
Vote Carried unanimously
3. Loan approval: Constantine, 5 Wamasquid Place (56-113.4) septic to sewer
Sitting Visco, MacNab, Cooper, Weld
Documentation Supporting documents and plans, staff recommendations.
Discussion **Santamaria** – Straight forward; no objection.
Action **Motion to Approve.** (made by: MacNab) (seconded)
Vote Carried unanimously
4. Variance request: Greenwald, 6, 6A, and 9 Washington Avenue (6.2.4-66 & 66.1 & 6.2.1-40) Local Reg 51 – 51.02 and 51.03 setback and well separation
Sitting Visco, MacNab, Cooper, Weld
Documentation Supporting documents and plans, staff recommendations, assessor's map.
Discussion **Don Bracken**, Bracken Engineering – In 2010, received a permit for a grey-water system for two structures; after issues with the composting toilets, asked for a tight tank, which was denied. The property at 9 Washington Avenue has a Title 5 compliant system; his client is hoping to mix the upgrade on 6 & 6A Washington Avenue with the upgrade of 9 Washington Avenue. There would be a net decrease of nitrogen loading by 25%.
Visco – Reviewing this from the deal the owners cut in the past, that was the only way they were going to be able to move the house onto that lot. The composting toilets were part of it with a deed restriction that there would be no black water on lots 6 & 6A. His feeling with this is they are stuck with the deal they bargained for.
Bracken – The deed restriction could be modified with the vote of the Board. Noted there would be a net benefit toward the Board's goal.
Visco – This is the second time they've come back for a deal that keeps them from having to deal with composting toilets. The only way they got the house was the deal they cut. 9 Washington Avenue is not contiguous and should stand on its own. He doesn't think the net benefit of removing the grey-water system is that much. 9 Washington will have to get an I/A system when the regulations change, or they want to sell. The two lots, 6 & 6A, are non-conforming and the aggregate lot is now in the ocean; the downgradient flow should be toward the aggregate where it is toward Hither Creek. With composting the milligram discharge is very low.
MacNab – This could set a precedent where people start teaming up to meet the aggregate or use non-contiguous lots.
Cooper – Asked if the no-black-water discharge was local or through the State. Asked if we have the right to rescind it.
Visco – It was on the agreement recorded with the registry of deeds. He thinks that is in perpetuity; we probably could rescind it but that becomes a slippery slope.
MacNab – Thinks we have to deal with what's in front of us right now. Taken individually, the best system for lots 6 & 6A is the one that's there now.
Gail Greenwald, owner – When we were approved to move the house in 2010, converting 6 Washington Avenue to a 4-bedroom greywater only reduced the nitrogen loading. The composting toilets have had lots of problems. Described living with the composting toilets: cleaning, odors, fruit flies, and explaining to guests use of the toilets.
Visco – Noted they could move the house and go back to the 2-bedroom conventional septic. Consensus agrees.
Action **Motion to Deny the variance request.** (made by: MacNab) (seconded)
Vote Carried 3-1//MacNab opposed

5. Waiver request: Rugged Scott pool attendant

Sitting Visco, MacNab, Cooper, Weld

Documentation Supporting documents and plans, staff recommendations.

Discussion **Arthur Reade**, Reade, Gullicksen, Hanley, & Gifford LLP, for Homeowners Association (HOA) – The HOA finds the requirement for a pool attendant extremely burdensome to the association and the members in a mixed-income development. There would be a pool attendant from July 1 to Labor Day from 11-5 daily but still be able to keep the pool open to a limited extent outside those hours for use by adults. The pool has been in operation since 2009.

MacNab – Asked if children would be allowed there during the off hours and who would enforce this.

Reade – Parents would be in charge of the children; there would be rules with the obligation to follow those rules.

MacNab – Asked what happens if an inspector goes out and finds the pool is non-compliant.

Santamaria – We have the ability to fine and issue tickets to the HOA.

Cooper – It says a Licensed pool supervisor.

MacNab – That is defined as certified CPR and First Aid.

Cooper – This came to us before; he feels someone should be there the whole time the pool is open. He stands by that.

Visco – This is gambling with people’s lives.

Reade – You don’t have that in a completely private pool.

Santamaria – This is a public/private pool.

Reade – A registered adult would be present when anyone under 18 is using the pool.

Visco – We should stick to the regulation. Granting this would set a precedent.

MacNab – If all the adults are CPR and First aid trained, they would qualify as a pool attendant. That would be a way to move on without asking for a variance.

Weld – Accidents happen; cited an example where a 9-year-old almost drowned while the parents were in the pool as well.

Santamaria – A good compromise is to have at least one household member trained.

Reade – Asked to table the discussion while he speaks with the HOA.

Brian Lenane, 9 Wood Lily Road – The pool is gated and requires a code to get in. His observation has been when families go to the pool, they go as families. All the people having CPR and First Aid training isn’t a bad thing. As the proposal is written, if all adults are certified with documentation, we would be able to proceed with the schedule as defined here.

Visco – They’d be considered a pool attendant and meet the regulations.

Cooper – What would they do when someone rents a property.

Lenane – We’d have to get a list of who’s certified and who lives on the property; if they are a renter and no one is present, we’d have to limit their access to the hours the attendant is present.

Visco – The HOA would have to know who’s on the list.

Santamaria – Daily maintenance and chlorine testing of the pool still has to be done by a Certified Pool Operator.

Action Tabled for the next meeting.

Vote N/A

VI. PUBLIC HEARINGS

1. Board of Health Local Regulation 65

Sitting Visco, MacNab, Cooper, Weld

Documentation Draft Local Regulation 65

Discussion Motion to Open the Public Hearing at 4:38 p.m. (made by: MacNab) (seconded) Carried unanimously

Santamaria – This is for the addition of an enforcement clause. At that time, it was under the umbrella of Regulation 67, which was the enforcement regulation for all Regulations 60-69. Read the enforcement clause allowing enforcement of septic operations, maintenance agreements; people allow those agreements to lapse.

Bill Grieder, President Madaket Conservation Association – MCA has been following septic regulations since 2001. He has researched the issue over the past couple of weeks and sent correspondence to the 600 Madaket homeowners recommending they check with the Health Department to ensure property is compliant. Feels it is incumbent upon the Board of Health to information the property owners of the change. Noted that the system is not capable of reaching back years for research purposes. Spoke a little regarding Regulation 51 and confirmed it would include properties at Fisher’s Landing.

Visco – Madaket Harbor Watershed consists of Zone A and Zone B; if you are on line, your system has to meet the defined watershed.

Santamaria – The road boundaries are still in the on-line version of Reg. 51; he’ll update the web version. The intention of the enforcement is that if the operator is not performing to standard, that is not the homeowner’s fault.

Motion to Close the public Hearing at 4:50 p.m. (made by: MacNab) (seconded) Carried unanimously

Motion to accept the amendments to Regulation 65 as written. (made by: Weld) (seconded)

Carried unanimously

Action

Vote

2. Board of Health Local Regulation 76

Sitting

Visco, MacNab, Cooper, Weld

Documentation

Draft Local Regulation 76; correspondence

Discussion

Motion to Open the Public Hearing at 4:50 p.m. (made by: Cooper) (seconded) Carried unanimously

Santamaria – Looking to update these the ones we have are old and don’t define some uses as well as enforcement being an issue. Worked with Department of Public Works (DPW) to be closer to the State model. This version was sent to us from Town Counsel.

Charlie O’Neil, Manager P&M Reis Trucking – Read into the record an email sent to the Health Department objecting to the proposed updates and amendments and asking for no action at this time. Asked for a collaboration with the stakeholders to come to a reasonable solution.

McNeil – Chapter 125 §2 spells out the DPW’s responsibility for taking charge of the waste stream and the leadership goals are laid out by the Select Board. We’ve worked with the Public and Haulers and Select Board for the past 1.5 years to come up with these updated regulations. Feels characterizing this as urgent and not thought through is wrong. The Town is looking to get on board with the State model regulations, which focuses on providing a bundled service. 75% of Island waste is trucked to the Landfill by private haulers; however, the method of delivering combined recyclables becomes a very laborious process for the DPW workers to sort. He has received positive feedback from the haulers who participated in the meetings.

Myles Reis, P&M Reis Trucking – He feels the statement we are all in agreement is wrong. We’ve been instructed that the bales can’t be moved, and the Steamship Authority (SSA) can’t take them and that the rail yard won’t take them; that is untrue. Mr. O’Neil sent the Steamship rates. Our analysis indicates that the taxpayers will end up paying \$445 a ton; the bundles going off Island for disposal cost a total of \$155 a ton. The separation can be done mechanically. One problem with the bundled service is it requires a fee schedule. If we are in compliance with no more than 10% recyclable in the waste stream, then he thinks we are already better than that.

McNeil – A couple of points: SSA has made it clear that we do not have anywhere near the capacity on our boats as Martha’s Vineyard; we are trying to remove the contaminants from the waste stream before it is mechanically separated. We have started that and in one year has shown

an 10% reduction in those contaminants in the waste stream. Noted the MV is making a huge shift toward composting to save money.

Reis – As far as the bundles, he has reservations for his trucks on the boat and he hauls off almost as much construction and demolition waste (C&D) as the landfill. He can take care of the contaminated waste stream at half the rate what the DPW would charge.

MacNab – He had a vision of the bags not being picked up across the Island, particularly in the summer regardless of how much we try to educate people. Asked who will go get these bags.

McNeil – This isn't something we will jump into; it's taken two years to go from gathering data from municipal receptacles around the core to multiple receptacles and fining for illegal dumping. Regulations allow us to act and promulgate that. This is a partnership recognizing the value of having 75% of the waste delivered to us. The leaders of the rental organizations stated they have fining mechanisms as well as people who go to the properties and do the sorting.

MacNab – Suggested that if this is implemented, fining the haulers could be delayed to see how many bags actually end up floating around. He doesn't know how it will work if the haulers don't take the bags with contaminants.

McNeil – Fair amount of this is data reporting; the haulers could tell us how many violations they had. That's stuff we can take action on and provides data to ascertain how to improve things. We are not in a place to talk about ticketing.

Cooper – To him the partnership between the DPW and waste haulers seems to be one that doesn't agree. HE thinks there's a lot to be worked out before he votes for this.

MacNab – He has a sense they are talking about the same thing but not communicating well.

McNeil – The expectations are clear in the draft regulations; we are talking about the haulers and Town having higher expectations of the customers.

Cooper – He feels there's too great a distance between the two groups to vote on this tonight. Waste is everyone's problem. There needs to be a gathering of all people responsible for this.

Visco – He agrees; there's a lot of issues to be worked out. Changing regulations with such a large impact in February is a problem; this is a big issue impacting 1000s of people and no one is here. The sheer separation, bags, haulers having to leave it there are all his concerns.

McNeil – We will work with people to ensure no bags are left behind. There are reporting requirements in the regulations that aren't currently being followed. If contaminated bags come into the facility, we deal with it.

MacNab – He likes the idea and agrees we need to do something better, but he has concerns about handling the contaminated bags.

Reis – Some big problems are dropping off co-mingled bags of plastic and tin; you want them separated; under the current contract, it is up to Waste Options to do that sorting. The big issue is the contaminants.

O'Neil – One statement about how we currently deal with recycling was correct in that we make efforts to call the customers and educate them; however, we do not leave bags that contain garbage if it contains recyclables. We are part of the Public Health program. The regulation says we must leave those bags behind and we will be fined if we deliver those bags.

Bill Grieder, resident – He rents his unit and informs his renters of the recycling policy; that's confusing as it seems to be constantly changing. His biggest concern is the implication that there are parts of the regulation that aren't being enforced. If the enforcement isn't ready, it shouldn't be in the policy until the issue is refined. The residents can't pick and choose what part of the regulation they will follow, and the government shouldn't pick and choose what part of the regulation they will enforce.

Nancy Tobias, resident – She takes her trash to the dump and finds the regulations aren't that hard to follow. You set up the boxes in the kitchen and when they're full take them to the dump as they were sorted in the boxes. She understands the hauler's concerns because they operate on

such a larger scale. She was disappointed that the haulers didn't offer any solutions to their concerns.

Visco – Ms. Tobias made a good point as to why approval of these regulations should be tabled.

Patty Santos, Santos Rubbish – Mr. O'Neil made a point about what could be done regarding the contaminants; we've made huge strides. Adding the contaminants is the issue. We are happy to work with our customers, but we can't force them to comply.

MacNab – He's not hearing any new information, suggested continuing the public hearing.

Visco – Suggested continuing to April.

Santamaria – We can continue to date certain or hold a special meeting for just this public hearing

Weld – She doesn't see anything changing before the next hearing; asked to put together a workgroup to work out those sections of the regulations where there is an impasse.

Cooper – He agrees the DPW and haulers need to get together and work out something.

Santamaria – We can continue the hearing to a date certain or close the hearing and re-advertise a new public hearing at a future date. The Madaket I/A is in April and will take a while.

Reis – Suggested putting this off for April and having a sub-committee between now and have at least one person from the BoH and one from the Select Board for him to take part in the workgroup.

MacNab – The issue is the bags with contaminants; the fees and hauling off Island is a long-term issue that has nothing to do with the regulations.

Visco – Suggested tabling to May.

Motion to continue the public hearing until the May meeting. (made by: Cooper) (seconded)

Action

Vote

Carried unanimously

VII. BOH BUSINESS – UPDATES AND CONCERNS

1. None

VIII. ADDITIONAL DOCUMENTS USED

1. None

IX. ADJOURN

Adjourned by unanimous consent at 5:57 P.M.

Submitted by:

Terry L. Norton