



# BOARD OF HEALTH Meeting

Town of Nantucket  
3 East Chestnut Street  
Nantucket, Massachusetts 02554

[www.nantucket-ma.gov](http://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, January 21, 2021**

*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; A. Crowley, Assistant Health Director; K. LaFavre, Health Inspector; T. Norton, Town Minutes Taker; Jerico Mele, Human Services Director

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

Absent Members: Meredith Lepore

## I. ANNOUNCEMENTS

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

1. **Derek Toomre** – He's with the Yale University School of Medicine and part of a startup You Smell It, which has developed an olfactory test for COVID; it is registered as a Class II device for screening. In an ideal world you'd have an antigen test every couple of days; that's what's needed to drop the degree of infection but those are expensive. It's better to have an okay test you can do often over a good test you do infrequently. The level of deployment for this is nearly unlimited.

**Santamaria** – Right now all screening is done by private entities at the boats; we can't mandate the screening.

**Visco** – Asked Dr. Toomre to hold further discussion on this for the COVID section of the meeting.

## III. APPROVAL OF MINUTES

1. December 17, 2020

Action **Motion to Approve.** (made by: MacNab) (seconded)

Roll-call vote Carried 4-0//MacNab, Murphy, Cooper, and Visco-aye

## IV. DIRECTOR'S REPORT

1. None

## V. BOH APPLICATIONS REVIEW

1. Release septic loan for 291 Madaket Rd per Tax Collector's Office (allow chair to sign for Board)

Sitting Visco, MacNab, Cooper, Murphy

Documentation Supporting documents and plans, staff recommendations.

Discussion **Santamaria** – We need to release the lien.

Action **Motion to release the lien.** (made by: MacNab) (seconded)

Roll-call vote Carried 4-0//Murphy, MacNab, Cooper, and Visco-aye

Action **Motion to Allow chair to sign for board.** (made by: MacNab) (seconded)

Roll-call vote Carried 4-0//Murphy, MacNab, Cooper, and Visco-aye

2. Loan request for 38 Long Pond 59.4-116 septic repair

- Sitting Visco, MacNab, Cooper, Murphy  
Documentation Supporting documents and plans, staff recommendations.  
Discussion None  
Action **Motion to Approve.** (made by: Murphy) (seconded)  
Roll-call vote Carried 4-0//Murphy, MacNab, Cooper, and Visco-aye

3. Continued: Variance request for 167 Hummock Pond 65-36, BOH Regs 56.02 & 64.04B1 one bedroom per 10,000sf

**VI. PUBLIC HEARING**

Continuation of Public hearing: 105 CMR 435:00 Minimum Standards for Swimming Pools

Sitting Visco, MacNab, Cooper, Lepore, Murphy

Speakers Sarah Alger, Sarah F. Alger P.C.

Brian Barnett

Jay Youmans

Ford Athmann, Smith Costello & Crawford

Discussion **Visco** – He is under contract for septic work with Finback Lane. The hearing is still open.

**Alger** – She doesn't have much to add at this time. She hopes the members have had an opportunity to review submitted information. Feels the BOH made the right decision exempting these semi-private pools.

**Athmann** – He also hopes the Board read through the memorandum and listen to the audios from 2011 and 2015 meetings. Our contention is that this board hoped to increase safety at pools, which we want, however, we need to look at the best method to do so. Studies show overwhelmingly that, if you have this enforcement of lifeguards at semi-public pools, you have a spike in the installation of private pools, which aren't controlled, and statistics show have the largest number of drowning incidents.

**Youmans** – If this Board decides to go in a different direction, he would point out that under the Massachusetts Pool Code the Board is required to analyze any requirements for staffing. At the very least, the criteria need to be enumerated and documented.

**MacNab** – That is the strongest point. He went through the documentation is depth. The cost wasn't well documented; pool cost documents talk about the lifeguard and their training. The 10% loss of life at semi-public pools is still 10% life loss. Agrees that environmentally pools aren't a good thing; referenced data in an article by Forrest and Williams about chemical and water use. Your best argument is that if you read 105 CMR, it says the Board "shall" consider size and use. Wonders if Town Counsel has an opinion about what our true power is. If he had his way, we wouldn't have any pools on Nantucket.

**Cooper** – There are 5 subdivisions under discussion; that means 5 pools. The representatives estimate use is only 1 person per house per pool per day. Asked if these are rental properties.

**Youmans** – These are private residences, and we have stringent rules around the use of pools.

**Cooper** – If you add up the amount of buildings in the 5 subdivisions, that's 132 units with the pools opened 137 days, one person per day is 18,000 people using those pools; he thinks that number is very low and that you are actually looking at 2 people per house per day. He doesn't know how we can allow 18,000 people to use those pools without some restriction.

**Athmann** – These are not rental properties, though they can rent their properties; it might be 18,000 uses but not people over the course of the season. A person who uses a pool often has more sense of safety than one person who uses it once.

**Youmans** – The point we're trying to make is that 72% to 75% of drownings occur in private pools; semi-public pools are a safer option. The unintended consequence is increased costs for operating a semi-public pool will cause increased construction of private pools. You have to

consider consumer behavior. You need to go through the four criteria and ensure you are exercising those criteria.

**Murphy** – Asked if any Island development with greater than 75 homes has a pool.

**Alger** – She can't think of any.

**Murphy** – She understands that by State standards, the 75-homes cap seems to be the stress point where you would require attendant pool staff. She is very compelled with the argument that a lot of other communities don't have these requirements. Asked to hear what criteria we would have to consider if we require staff.

**Athmann** – The four criteria: size and capacity; average attendance; complexity of disinfectant; and history of compliance with regulations.

**Murphy** – It is disingenuous to make dramatic statements that a policy like this will save lives. She's also compelled by the fact private pools are more dangerous than homeowner association (HOA) pools. Feels that if we vote in favor of this, we are voting for a dangerous set up.

**LaFavre** – She spoke against discontinuing the requirement for lifeguards in 2015; but the Board voted to discontinue the requirement at that time. Some pools went with the requirement that there be a CPR-certified attendant. Many developers are offering pools; they increase the value of the home. An attendant is safer; loss of one life is too many; drowning is the leading cause of death among children. Cited ways to save money using already required attendants. We have plans in place for emptying pools.

**Barnett** – There is a requirement to monitor the water and equipment; at our development, we've used any possible way to mitigate the pool's impact on the environment while maintaining a high quality of water.

**Youmans** – This is not personal; no one wants to kill kids. The question is consumer behavior, which needs to be taken into account, as well as the economic impact.

**Crowley** – Agrees with everything Ms. LaFavre said. Every day 10 people die from unintentional drowning, 2 are children. As the Health Department, it is our responsible to keep people safe. If no one is present, unintended situations arise. Pool attendant requirement provides a reasonable safeguard. Asked the Board to reaffirm the need for an attendant at semi-public pools. The idea that installation of pools will increase has already sailed; that is already happening and every week there are multiple applications for private pools.

**MacNab** – Private pools have more deaths because there is no attendant; that doesn't mean a semi-public pool is any safer. The Florida numbers don't indicate how many drownings occurred at semi-public pools without attendants.

**Cooper** – The first thing the owner of a pool where a drowning occurs will say is that they did everything the BOH required.

**Youmans** – If you vote the way I think you will, he wants it in the record that this is not about money; a lot of these folks don't live in these subdivisions full time and the idea of full-time staff is unrealistic for them. When you take a vote, we'd like the minutes to reflect the policy verbatim and the rationale why the policy meets the criteria.

**Alger** – We are acting as though all these semi-public pools are in affluent neighborhoods, they aren't. We're dealing with some affordable neighborhoods and the increased HOA fees will have a negative impact on those communities. If this policy had been articulated clearly on the books and properly enforced, they probably wouldn't have built a semi-public pool but put a pool on each lot.

**Athmann** – Pointed out that as the Board the board considers its vote, it "shall review the criteria" and asked that rather than a vote today or blanket statement that all semi-public pools must have an attendant on site, that we take the time to consider a reasonable cap on the number of units in a subdivision; there is precedent for doing that.

**MacNab** – He feels uncomfortable voting today unless we have the legal grounds for "shall consider."

**Santamaria** – If the vote is put off, suggested looking into the criteria and that it be reviewed by Town Counsel. When we start requiring the policy as part of the vote, that can be challenged in Superior Court. He will talk with staff to work up a template on size of pool and size of community and what's expected of an attendant.

**Murphy** – Asked that when this comes back, we have a draft of the motion to be reviewed ahead of the meeting.

Action **Motion to continue the public hearing to February 18<sup>th</sup> meeting.** (made by: Murphy)  
(seconded)

Roll-call vote Carried 4-0//Murphy, MacNab, Cooper, and Visco-aye

**MacNab** – Asked if we can regulate the number of pools on the island; there is plenty of data supporting doing that due to environmental reasons. He's willing to write any supporting documents necessary.

**Santamaria** – Only Zoning can limit the number of pools. We would need to have a full public-health reason behind it under MGL 111 Chapter 31.1(a).

## V. COVID-19 UPDATE

**Santamaria** – Positivity rate has dropped to 7%. We have to act as though the variants are already here. The South African variance is potentially vaccine resistant; there have been a couple of cases in the US but not yet in Massachusetts. The B117 variant is responsive to the vaccine.

**Murphy** – She's excited about "You Smell It". When we get to Phase III, vaccination of general population, that will coincide with the return of summer people. There's a concern we won't have sufficient vaccine.

**Santamaria** – Right now we are slated to have 100m vaccines for the US; that's 1/3 of the population. When we reach Phase III, there will be multiple vaccination site. Before residents come here, they should have had access to at least the 1<sup>st</sup> dose. He hopes that production will have caught up when we reach Phase III.

**Murphy** – A lot of that concern comes from confusion like the State using old census information. Asked about how to get email confirmation if you've signed up.

**Santamaria** – The vaccine allotment isn't based upon census numbers but on demand. If we see an uptick in demand, we can order extra vaccines.

**Mele** – There had been issues with the signup request on the Town website; if you have concerns, you can re-sign up on the Town website and parse it out as the most recent submission.

**Bill Grieder**, Madaket Conservation Association – There's an unsubstantiated rumor people have to go to the same place they got their 1<sup>st</sup> shot. Asked how the Town will deal with the influx of people who need their second shot.

**Mele** – The Electronic Medical Record System will include the date of your 1<sup>st</sup> vaccination with an appointment system set up for the second shot.

**Murphy** – A comment from Mary Longacre: she asked if vaccinations are scheduled in order of submission of the registration and if reregistering would push you down the list.

**Mele** – Prioritization is based upon several factors: age, co-morbidity, and occupation with tiers in which those are classified. If you resubmit, you don't lose your place in line.

**Toomre** – He's a founder of You Smell It; this is an introductory meeting to gage what we could do for the Town. There are 11 symptoms associated with COVID; loss of smell is one of them. This test can be done every day. Explained how the test works. Asked if the community would be interested in engaging in a program where opt-ins have the card. Also asked if there is interest in putting together a Blue-Ribbon Panel; if we can make it work in Nantucket, we can extrapolate the information.

**Mele** – He went through the modeling paper, which was very good with a very compelling argument. His questions are in how it would be applied. The primary issue is if this will be used for general screening or as a self-test.

**Toomre** – We are registered with the FDA as an olfactory test. If someone fails the olfactory test, they can go for a second test. Explained the most optimal way to run this testing program. Suggested three experts for the panel. Loss of smell is unnoticeable by most people unless they check it every day; that's why there are multiple cards.

**MacNab** – In theory it sounds great, but he hasn't seen any data. He'd like to see what was submitted for emergency authorization, submission data, any trials done, and any marketing studies if they've been done. Anything on this Island has to be done with a proper study and protocol. Asked if we do the study, would the company fund it.

**Toomre** – We’ve been involved in a number of clinical studies. In one study, the cards were used on out-patients being simultaneously PCR or antigen tested; that helped to ascertain percentage of false positives.

**Mele** –He’d be interested in a separate meeting about the deployment options; this would be a good screening option.

**MacNab** – The panel couldn’t just be Dr. Toomre’s experts; we have capable people on Island who could also be part of the panel. Asked to see all data and what was submitted to the FDA.

**Murphy** – From a lay-person’s perspective, she’s excited about being able to use this test leading into the summer. Our community would be blessed to be part of such a trial for use when summer people start arriving.

**Catherine Slattery** – Thanked everyone for reviewing this. Dr. Lepore suggested having people in both symptomatic and asymptomatic test lines using this; he also suggested using it in the schools.

## VI. BOH BUSINESS

1. None

## VII. ADDITIONAL DOCUMENTS USED

1. Draft BOH Minutes December 17, 2020

## VIII. ADJOURN

Action                    **Motion to Adjourn at 4:35 p.m.** (made by: MacNab) (seconded)  
Roll-call vote            Carried 4-0//MacNab, Murphy, Cooper, and Visco-aye

Submitted by:  
Terry L. Norton