



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, Rita Higgins, Select Board

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

~~ MINUTES ~~

Friday, April 17, 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

Announcements

Staff: Libby Gibson, Town Manager; R. Santamaria, Health Director; Leslie Snell, Planning Deputy Director; Jeff Carlson: Director Natural Resources; William Pittman, Nantucket Police Chief
Attending Members: Stephen Visco, Chair; Malcolm MacNab, Vice chair; James Cooper; Helene Weld; Rita Higgins
Select Board: Select Board Chair Dawn Hill Holdgate, Jason Bridges, Rita Higgins, Matt Fee, Kristie Ferrantella
Speakers: Dr. Diane Pearl, Chief Medical Officer NCH; Gary Shaw, President NCH; Gregg Corbo
Town Counsel: Gregg Corbo, K&P

Agenda adopted by unanimous consent

I. BACK TO WORK DISCUSSION

Discussion **Gibson** – Reviewed the proposed order, specifically what work is allowed. Start date for this order would be April 27, 2020.
Ferrantella – Asked if this is for all buildings or only those that need to be made weather tight.
Corbo – There was concern about the original emergency order; this provision clarifies what is emergency work and relates to the building that has a Certificate of Occupancy and what is necessary to make it habitable.
Gibson – At the Select Board meeting Wednesday, there was question about a property with multiple buildings. It was suggested it would go by the property.
Snell – The wording now would allow people to work on a second and primary dwelling that aren’t weather tight with no more than two people per building exercising social distancing.
Fee – You have to think of safety as well as equity.
Hill Holdgate – Her concern is site with multiple building permits; suggested keeping it at 4 people per property.
Visco – Agrees it should be by property.
Bridges – Asked if the fine details are allowing more than one person per site.
Hill Holdgate – This is if two people are exposed to each other; she thinks we need to clarify what we mean by one person per job site. Three items of discussion: expanding what work to be allowed under waiver, structures to be made weather tight and limiting to 4 workers per site, and if one worker could be on any site as long as they register their name and site they will be working on.
Gibson – Houses will be changed to “structures.” Allowed work will be bullet points. Work on following housing projects may be permitted subject to further site visits: workforce rental, year-round use/employee housing – there is a question BOH.
Snell – She didn’t know where the BOH review came on this bullet and what sort of work would be allowed to continue. The wording requires an extra level of review by the BOH.

Corbo – He put that language in there more as a placeholder until it's decided who would determine what work is allowed. If you want the Building Commissioner, he'll make that change, "any work deemed specific to year-round housing, workforce housing, and employee housing as designated by the Building Commissioner."

Higgins – Asked if it had been agreed to make Construction and landscaping separate documents.

Gibson – Yes.

Higgins– Under Construction Safety Stand Down, asked if there is a way to include homeowners in signing off on the protocol.

Snell – There is a signature page for the homeowner.

Corbo – The primary means of enforcement will be against the contractor by either suspending authorization to proceed or another way. There would be no rise to apply enforcement against the property owner unless they are responsible. Another enforcement would be against workers for not complying with safety protocols relative to COVID19.

Higgins – (1:38 statement regarding holding homeowners to an unrealistic standard.)

Fee – Asked where painters fall into this and if the four are assigned to one place or can they change every day.

Hill Holdgate – She believes its four on any given day. Painters wouldn't apply to a structure which is not weather tight except for exterior; they can fall under the one-worker.

Bridges – There needs to be some wording that a contractor can give to a client.

Corbo – Regarding the question of the same four people, no it doesn't but they still have to go through the stand-down procedure.

Fee – This thing can live for several days on give surfaces; the 4 workers should be looked at carefully.

Gibson – General on the job procedures to prevent exposure, provides for no workers leaving the site during the workday. All supplies and materials are to be delivered by the vendor. No workers shall commute from off Island.

Hill Holdgate – About people leaving for lunch and picking up supplies are more of a best practice directive to minimize travel.

Corbo – He did more work on the travel restrictions. Now it says employees shall not leave the job site except to go home and shall bring food from and not purchase from area vendors.

Higgins – The possibility of allowing food trucks to go to sites and if restaurants want to do that; it is a way to get food to sites.

Cooper – Questions why the worker has to go home after work.

Fee – We're still under a 12-day stay at home order; he doesn't know if going to a restaurant is a good practice. The goal is to have it tight to begin because this is a serious situation.

Ferrantella – Her concern is people's access to food while at work.

Corbo – If you open up to off-Island workers, these provisions are much more important because you only want them there for work and then leave. If we're talking about Island residents, this is of less concern. He researched if this order may limit to workers on Island; he couldn't find any cases. Under the State Constitution, there is a fundamental right of travel; that right can take a back seat to regulations that furthers an important governmental interest. Given the state of emergency and that the regulation is narrow in scope, businesses are allowed to open with only using workers who currently live on Island for the duration of the emergency.

Visco – Thought Order Nr. 3, which expired April 6, limited off-island people coming to the Island essential reasons. He thinks Order Nr. 3 should be reinstated; it is a matter of public health.

Corbo – All travel on the Island except for essential travel is prohibited; it is within the Town's right to restrict travel when there is a substantial public interest to be furthers.

Hill Holdgate – Suggested incorporating that into this.

Bridges – We've found we can't restrict travel to the Island.

Corbo – Order Nr. 3 was much more extensive and quarantined the Island; now we are talking about opening a limited amount of construction work and whether or not off-island workers should be allowed to come here.

Hill Holdgate – She wants us to come more into line with the State to alleviate confusion. She thought we were trying for a directive that if they come from off Island they must stay and self-quarantine.

Fee – He doesn't agree that restricting travel is illegal in this case; we are allowed to protect the community.

Pearl – This discussion was about populating a site with 1-4 people in a way that doesn't risk public health and benefit the community. People travelling to and from the Island is another question. Starting off with these proposals limiting work to island people is a low-risk step. We don't have a treatment for this disease. She's concerned about on person on a site in the event they get injured. With four people, she's concerned about hygiene.

Hill Holdgate – We'll be relying on messaging from the Builder's Association; if there are a lot of people travelling, we'll close it off again. She doesn't want to get into a Constitutional fight.

Corbo – This is very different from the Outer Banks closure. This Order limits a certain practice to a specific group; that is justifiable. If you open up to off-island workers, it becomes difficult to enforce their restriction to the job site. Regarding enforcement, if you see someone you know is an off-island worker at someplace other than the job site, you can issue a non-criminal ticket or through the order they can be seen as a trespasser and if they don't move on are subject to arrest.

Higgins – She is uncomfortable with trying to identify someone coming off the ferry and identifying their reason for coming here. Suggested an employee log from contractors with a list of names and addresses.

Bridges – He sees something like racial profiling coming out of this; he'd rather see no work being done before May 4. He doesn't like the idea we can arrest or ticket.

Corbo – Suggested saying, “preference shall be given to on-Island workers” and keep the provision they can't leave the job site.

Cooper – If your limited to 4 people per site, a contractor is going to use his local employees.

Higgins – Likes Mr. Corbo's suggestion to give preference. It's up to us to self-regulate.

Hill Holdgate – She likes the contractor logging the four names of who will be working a job site.

Visco – He likes the preference wording.

Pearl – The surge has not yet occurred in Boston; it is inevitable that this will open up. One step at a time is best and this is the first step.

Fee – His concern is in the future; he's not sure Boston will do the right thing for Nantucket in a month or two. Travel will be the biggest issue. If this is still with us in the future, we will have to discuss limiting travel and opposing Boston.

Hill Holdgate – We need to consider where we are at and monitoring every day.

MacNab – We wandered off onto travel; asked if the last paragraph was resolved. He likes preference to Nantucketers. Agrees with Dr. Pearl about the one person on site. He thinks its overly restrictive to say they can't go to a store to get lunch.

Higgins – A lot the trades that want one person per job site already do a lot of solo work.

Corbo – There's nothing in the document that addresses the one-worker situation; this document is aimed at opening up bigger projects to a limited extent with proper precautions. Opening jobs to a single worker is another discussion.

Fee – He'd prefer to start with one person per one job then open up to larger jobs or have them happen at the same time. We would have the single worker sign the same paper as the larger company.

Higgins – Wants to look at one worker per on site at another meeting. Doesn't want to hash it out without guidance from Ms. Snell or Mr. Santamaria. Mr. Shaw said to look at the safest way to introduce work back into the community.

Hill Holdgate – Economically, people are coming up on the May 1st deadline on mortgage and rental payments. Mr. Shaw said we can “take the breaks off” a little at a time.

Bridges – Wants to continue discussion about what weather tight looks like then go back to the four people per site.

Gibson – There is a comment about the appeal process going to the BOH and Building Commissioner; asked Mr. Corbo his thoughts.

Corbo – He didn’t anticipate there being an appeal process. There is a statutory appeal process for receiving a ticket. Asked what appeal is being talked about.

Snell – It is in the event the Building Commissioner denies a request or if a job site is shut down due to COVID concerns.

Corbo – He will add a paragraph on that appeal process in the enforcement section.

Gibson – One-worker allowance remains outstanding. Off-Island travel is outstanding. There is nothing in the Order about a worker log; that would have to be added.

Hill Holdgate – Suggested discussing landscaping.

Gibson – Revised landscape protocol from Mr. Carlson was sent to everyone today. The suggestion is that should be a separate document. Safety protocols says, “construction safety stand down” and references a daily log.

Carlson – After discussion, we created an initial list of allowable activities to include irrigation related to water turn on. One exemption was one-worker per site. Mowing lawns, mulching and such could be authorized by BOH for one week to ensure people are being compliant. Crews are limited to 2 individuals. Another addition is a requirement for a daily log per employee and which property they visited.

Higgins – It might be a good idea to consider logs for construction especially if we are doing an Island preference. She’s not fully comfortable with this. She doesn’t think we’ve found the balance between public rights and public health. She’s more comfortable with one person per work site is the safest way to move forward for a week or two. She wants a hotline for employees to call if they fear their employer isn’t taking care of them.

Weld – Asked when work will commence.

Hill Holdgate – that needs to be discussed. NCH said they are ready.

Macnab – We have to address the right of the worker. A person has a right to say they don’t feel safe going back to work.

Hill Holdgate – She feels people would not be forced to go back to work during this event; she asked Town Counsel about it.

Corbo – He hasn’t gotten a conclusive answer; we will provide an opinion on the rights of the workers if there is anything above and beyond what the State does. We only require job sites have a placard about social distancing; you could add a number if the safety measures aren’t being met. Discussion about protecting workers concerned about going back to work and whether a job is considered essential or not.

Corbo – Landscapers are listed as essential under construction as far as the State is concerned.

Hill Holdgate – The Building Association talked about a hotline should workers feel they are put in a precarious situation.

Ferrantella – Builders’ Association is involved in construction, asked who is involved with landscaping.

Carlson – We had a number of calls and he did research on guidelines from CDC.

Higgins – She wants the one person per job to go forward. The Martha’s Vineyard draft has wording about sanitizing a site.

HH – For interior work, proper sanitation needs to take place.

Corbo – We can add a requirement to sanitize a site between work team shifts.

Bridges – Asked Dr. Pearl about the April 27 start date versus May 4 start date.

Pearl – You have a low level of COVID on the Island with no new cases for 14 days. We have to move forward in the safest way possible: masks, social distancing, hygiene. We prepared for a larger outbreak so are “super” prepared. She feels the consequences will be minimal as proposed.

Higgins – She was texted a question asking about “patients under investigation” and if they tested positive. The texts were from Linda Williams and “Ava”.

Pearl – They have not tested positive and are not high risk.

Higgins – She’s confused about allowing people to go back to work while folks are

Pearl – Some people chose to take extreme caution and others would prefer to go back to work. To maintain public health, you have to implement masks, distancing, and washing hands.

HH – Enacting this is ultimately a BOH decision. However, we still have some decision points.

Corbo – There are two categories; allowable activities aren’t clear.

Carlson – The crews are limited under Job Procedures.

Corbo – He wants to go through this and ensure everything fits with landscaping. There should be a decision on what landscaping is allowed, then he can come up with a document.

Higgins – Allowable landscaping work needs to be defined, which jobs can be done by one person.

Carlson – We focused on installation of plants. We can craft language that allows a single person working alone.

Discussion about s single person per job per day.

Corbo – Four substantive issues need resolution: language for single worker job sites and registration, allowing/prohibiting off-island workers or preference, workers allowed to leave site, and lastly an effective date. Asked for a consensus on each at a time.

Consensus – On-island preference and registration with the building department.

Visco – Asked about the effective date and sign off.

Corbo – The effective date would require a vote of the board. On the four points he’s looking for a consensus on whether or not to add those to the document and how. Once that’s done you can approve based upon the final draft and allowing the chair to sign it.

Cooper – He’d like to go over the final draft as a board.

MacNab – Agrees.

Corbo – Asked for consensus on leaving the job site during the day.

Cooper – He doesn’t agree with them having to go directly home at the end of the day.

Consensus – People will be allowed to leave during the day with a directive to minimize doing that.

Corbo – Asked about single worker jobs.

Carlson – For landscaping, the worker has to provide 24-hour notice that they are coming to do work.

Consensus – Single-worker jobs okay with registration with the Building Department and no overlap of people during the day. If the house is occupied, the worker has to comply with social distancing and notify the owner 24 hours in advance.

Corbo – The last issue is effective date.

Cooper – Wants to provide the effective date when the BOH approves the order.

Discussion about the date for an emergency BOH meeting to approve the final draft to allow time for contractors to apply to work.

Snell – The Building Commissioner has heard from people who want exceptions, we are able to start processing applications and turn them over as quickly as possible. The emergency orders give 48 hours to review and provide a response. We know about most of the requests; they are waiting to move forward. I/T will help us create a simple, on-line application form.

Continued discussion to include separating landscape from construction.

Carlson – On landscaping, up to two workers are allowed on site. He will put together a step-by-step process for registering to do landscaping work; that will be ready for the BOH Sunday meeting.

Snell – We have a form for the waiver and will have an application. We can post online the process.

Corbo – You don't need a vote at this time. He will finish the draft for a vote on Sunday. The Chair can declare an emergency meeting; you need to set a time.

Action **Motion to Hold an Emergency BOH meeting Sunday April 19th at 1 p.m. to review the draft vote on the implementation.** (made by: Cooper) (seconded)

Roll-call Vote Carried unanimously: Cooper-aye; Weld-aye; MacNab-aye; Higgins-aye; Visco-aye

Motion to adjourn the Select Board meeting at 3:52 p.m. (made by: Bridges) (seconded)

Approved via roll-call vote.

Motion to adjourn the BOH meeting 3:52 p.m. (made by: MacNab) (second)

Carried unanimously by roll-call vote.: MacNab-aye; Higgins-aye; Weld-aye; Cooper-aye; Visco-aye

Submitted by:

Terry L. Norton