



BOARD OF HEALTH Emergency Meeting

Town of Nantucket
131 Pleasant Street
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Commissioners: Stephen Visco (chair), Malcolm MacNab, MD, PHD (Vice chair), James Cooper, Meredith Lepore, Melissa Murphy Select Board

Staff: Roberto Santamaria, Artell Crowley, Kathy LaFavre, Anne Barrett, John Hedden

~~ MINUTES ~~

Thursday, August 5, 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 1:00 p.m. and announcements by Mr. Visco

Staff: Libby Gibson, Town Manager; Roberto Santamaria, Health Director; Jerico Mele, Human Services Director; Amy Baxter, Events Coordinator; John Hedden, Health Inspector; Kathy LaFavre, Health Inspector; Heather Francis; Terry Norton, Town Minutes Taker

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

Speakers: Jason Bridges; Select Board Chair

Town Counsel: Gregg Corbo, K&P Law

I. REVIEW EMERGENCY ORDERS 16

a. Mask Order and Occupancy Restrictions – Order #16

Discussion **Santamaria** – Based upon the sewer testing results, they portend 40 cases in the next week. We had discussed that when we looked at 30 cases a day, we'd reconsider. It was the right choice to remove the mask order when we did, based upon information we had at that time. Since about May, we learned we could use Chapter 111; Section 122

Corbo – Explained that under 111§122, the BOH authority to prevent all causes of sickness within the Town. As long as the regulation is reasonably related to protecting public health and preventing causes of sickness. If you decide to address occupancy limits, he can add that to the draft.

Santamaria – Reviewed restrictions: Item 1 recommends social distancing both indoors and outdoors; Item 2 requires use of masks indoors; Item 3 indicates it does not apply to informal gatherings at private residences.

Corbo – The intent is that if you are having your own private gathering, you aren't required to have masks. However, if the private property is rented for compensation to hold an event, it is being treated as a business and masks are required.

MacNab – Asked if there is an exemption for children and if enforcement is addressed.

Santamaria – Item 5 recommends that all unvaccinated people wear masks in all public spaces

Murphy – Thinks there should be 2 separate points; she wants it to be clear what is a recommendation and what is a requirement.

Corbo – That can be made its own sentence, and everything renumbered.

Santamaria – Item 6 exempts children under 2 and anyone who unable to wear a mask for medical reasons. Item 7 addresses enforcement; cited who are considered Health Agents. Item 8 & 9 explains penalization and fines. If someone refuses to wear a mask in a business, they can call the Health Department.

Lepore – Feels we are past the written warning phase; this is not March 2020.

Murphy – Asked if service providers and trades people entering private residences should wear masks.

- Santamaria** – Theoretically they don't have to, but they should; that is part of item 5 but can be spelled out.
- Murphy** – Should also consider adding that unvaccinated people must wear masks indoor and outdoor.
- Santamaria** – Being a private entity, a business can implement as many screening tools as they want.
- Cooper** – If this is being passed as an order, doesn't understand the recommendations, which have no teeth. People either should or should not do something.
- Santamaria** – We can't dictate what happens inside a private residence.
- Murphy** – Asked if occupancy restrictions will be a separate discussion.
- Santamaria** – The occupancy restriction was discussed by the Select Board at their meeting yesterday and they don't think we need to restrict occupancy with outdoor seating. We know masks work.
- Lepore** – She understands the Select Board not supporting occupancy restriction, but she feels that isn't their call. There have been several businesses that had to close because of exposure incidents.
- Santamaria** – One thing discussed is that a lot of businesses are already restricting indoor occupancy to 75% because they can supplement with outdoor seating to reach 100% occupancy.
- Bridges** – The Select Board, as policy makers, have a say on implementation. We need to be able to help businesses understand the orders.
- MacNab** – He's with Ms. Lepore; this is August with 70,000 people on the Island for 4 more weeks. The BOH stating that there's an occupancy cap sends the right message to prevent indoor crowds.
- Murphy** – Blanket occupancy for all businesses is probably not the right approach. Some feedback she heard is having occupancy restrictions for bars and nightclubs but not restaurants so as not to impact dinner service. Businesses in other areas are asking for vaccination proof. If she were to support any occupancy restriction, it would have to be nuanced to the types of businesses where transmission is an issue.
- Cooper** – It says Town offices are going to appointment only; asked if that is necessary or if that decision is up to the Select Board.
- Mele** – The Town points of contact are at repeated exposure risk; 15 minutes over 24 hours is cumulative in enclosed areas, especially around core infrastructure departments.
- Murphy** – Couldn't we just say 75% of all businesses indoors; restaurants can serve some population outside where you're less at risk outside. We need to be strong right out of the gate.
- Mele** – We're looking at early stages of transmission with respect to Delta; amongst unvaccinated communicability is several 100% higher. Early evidence indicates we need to take this seriously; as of right now, we're working with incomplete knowledge and should be more protective.
- MacNab** – Occupancy is important, and we have to figure out how to do it. Agrees with Ms. Lepore that the occupancy should be specific. If people are hanging around a bar without masks, that is going to be a spread. Asked Staff to flesh out an occupancy plan; we then need to reconvene soon for a vote.
- Murphy** – Wants to vote on this Order today then meet next week to flush out the occupancy issue.
- Visco** – On occupancy, Provincetown is a couple of weeks ahead of us and instituting their mask order; the positivity rate was 15% and now is down to 3%. Asked if they put occupancy restrictions on their businesses in their order.
- Santamaria** – He can check but thinks their order addressed only the masks. We know the masks work.
- Baxter** – Looking at Provincetown' order, they addressed indoor bars and dancing – standing or ordering at the bar must wear a mask and guests must be masked on the dancefloor. We are now

in a situation where we have bars and dancing which we didn't have before. We also have issues with definition of indoors-outdoors. There are a lot nuances that we have to deal with.

Murphy – Thinks it would be useful to include the Provincetown language in this mask order; feels this order doesn't have enough definition to set up expectations of customer behaviors. Vaccination proof could be a way to mitigate occupancy.

Bridges – Asked about the effective date.

Santamaria – We'd have to set the effective date in the vote.

Bruce Mandel – Several restaurants have had exposure incidents; there seems to be no policy requiring a restaurant to inform the public when that happens so a person knows if they want to go there.

Santamaria – There is a policy.

Derek Toomre – Another possibility is to consider other mitigation measures; for olfactory testing, it started in a clinical trial in Cambridge. Asked if there is interest in the community to participate in such a study.

Mele – He can see the olfactory technology being useful; if a private business wants to participate, they can. It is not a technology to be adopted by the Town.

Nickole Tara – She's in the entertainment business. She cautions this Board of mandating their way out of a pandemic; feels we need to trust the process. From a legal perspective, suggested the BOH is thinking about enacting the bylaw for COVID prevention when "we know" that is not the case.

Murphy – She respects the debate about policies protecting those who chose not to vaccinated; a large part of her consideration is how she will protect everyone in our community.

Mele – There is a demographic that can't be vaccinated or have co-morbidities; he wants to protect everyone on the Island. Individual choices do not apply when you have a self-generating pathogen.

Santamaria – Reviewed the revised draft order based upon this meeting's discussion.

Corbo – Paragraph 7 addressing occupancy was added; asked where the Board stands on that.

Visco – He's uncomfortable voting on occupancy as part of this order; asked to wait for a more detailed plan the Board can discuss.

Murphy – Agrees.

MacNab – He support that. Asked for a rational occupancy plan to be developed and presented to the Board within a week.

Murphy – Asked if performers would be required to wear masks while performing.

MacNab – It is not reasonable to require performers to wear masks. A performer on a stage is at less risk than people hanging at a bar.

Lepore – They make masks especially for singing and acting.

Murphy – She agrees with Dr. MacNab. She still doesn't understand the expectations of bar customers and when they must or needn't wear a mask.

Santamaria – We've never required wearing masks while consuming food or drink.

Murphy – Wants an amendment that exempts theater and performance venues from requiring their performers to wear a mask.

Corbo – Suggested language exempting performers who are at least 6' away from the public.

Michael Kopko – Our performers are all 10' from the audience and all vaccinated. Likes the idea of separating recommendations from mandates.

Frank Daily – We get into a dangerous position when we pick certain industries to exclude from the mask order. When you started, the BOH had distinct qualifications for what we could or could not do and that worked. Noted that performers are on stage with other performers; he has to explain why the rules are different for his employees. Implored the Board keep it simple and have it the same requirements for every industry.

Peter Hoey – Asked for clarification on sections 2 and 3, if someone is holding an event under a tent and the flaps are dropped, that tent now becomes an indoor venue. Regarding effective dates,

suggested that be relatively quickly; with respect to occupancy, there should be some warning what with all the events taking place on Island.

Santamaria – When more than 50% of the tent flaps are down, it is considered indoor based upon reduced airflow; that is a State requirement.

Catherine Slattery – Related to giving businesses a head up, the virus doesn't give us notice. Asked that the Board vote in favor of an order requiring masks indoor. That is the simplest to explain and follow.

Cooper – Agrees with Ms. Slattery. We're here to present an order that we want people to follow. Feels there should be no recommendations; those water down the order and have no teeth.

Murphy – Regarding the communication strategy for the order, this is where the recommendations could be communicated. Communication will be critical in everyone understanding the orders.

Santamaria – Cited how they can get recommendations out to businesses and to the public. Noted that recommendations are poorly received in this country.

Baxter – We have great communication with restaurants and through the events workshops.

Santamaria – Asked if the board wants to remove the recommendation section.

Murphy – Wants to keep the recommendations separate and remain in the order.

MacNab – Likes the format as revised.

Santamaria – He will eliminate the 75% section and add masks are not required for performers.

Murphy – The only other consideration was that indoor dance and bar patrons may only remove masks when seated. Asked that be added. We need to determine the effective date; feels it should be immediate.

Santamaria – Added Section 4 reflecting the Provincetown order regarding bar and dance venue patrons.

Action **Motion to Approve Emergency Order 16 effective immediately.** (made by: Murphy) (seconded)
Roll-call Vote Carried 5-0//Cooper, MacNab, Murphy, Lepore, and Visco-aye

II. BOARD MEMBER UPDATES AND CONCERNS.

1. Santamaria – he will get to work on occupancy; suggested sometime next week when webinar is available.

Documents used:

1. Draft Order 16
2. Chapter 111S122
3. Provincetown Emergency Mask order

Motion to adjourn the BOH meeting 1:00 p.m. (made by: Muprhy) (second)

Carried unanimously//Cooper, MacNab, Murphy, Lepore, and Visco-aye

Submitted by:

Terry L. Norton