



BOARD OF HEALTH

Meeting

Town of Nantucket
131 Pleasant Street
Nantucket, Massachusetts 02554
www.nantucket-ma.gov

Commissioners: Malcom MacNab MD, PHD (chair), Meredith Lepore (vice chair), James Cooper, Kerry McKenna, Ann Smith

Staff: Roberto Santamaria, Kathy LaFavre, John Hedden, Cathy Flynn, Jake Visco, Sean Reid, Heather Nardone

~~ MINUTES ~~

Thursday, September 21, 2023

131 Pleasant Street, Trailer Conference Room

This meeting was held via remote participation using ZOOM and YouTube.

Called to order at 4:00 p.m.

Staff in attendance: Roberto Santamaria, Health Director; Jericho Mele, Human Services Director

Attending Members: Malcolm MacNab, MD, PHD; Meredith Lepore, James Cooper, Kerry McKenna and Ann Smith

Early Departure: Malcolm MacNab, MD, PHD at 5:57pm

I. ANNOUNCEMENTS

II. PUBLIC COMMENTS

MacNab- Leaving at 6pm.

McKenna- Questioned other alternatives for IA systems due to escalating prices.

Santamaria- The IA system list is handled by the State Department of Environmental Protection. Approved systems go through the Massachusetts septic system testing center. We allow IA system with nitrogen reducing technology. There are alternatives but they take up a lot more space. Engineers are aware of the options.

Lepore- Run for Recovery event is Sunday, September 24, 2023, to benefit Addiction Solutions of Nantucket.

III. APPROVAL OF MINUTES

1. August 17, 2023

MacNab- Noted that his last name is spelled MacNab.

Action **Motion to Approve with amended changes to the Chair's last name.** (Made by McKenna) (seconded by Lepore)

Vote Carried unanimously

IV. BOH BUSINESS/DISCUSSION

1. Update on the Summer House

Sitting MacNab, Cooper, McKenna, Lepore, Smith

Documentation Supporting documents and plans, staff recommendations.

Discussion (4:05) **Xavier Cervera, Summer House Consultant**

Santamaria- There are some issues which will need to be worked out for next season, like an operation's manual and proof of trainings in writing as requested before opening of next year.

Cervera- We conducted frequent inspections without incident. Sean was very helpful.

Action None.

Vote N/A

2. Short Term Rental Bylaw Discussion

Sitting	MacNab, Cooper, McKenna, Lepore, Smith
Documentation	Chapter 123, Regulation the Operation of Short-Term Rentals
Discussion (4:08)	<p>Santamaria- Staff has no objections to added definitions in Article 1. They added “attestation” which is only enforceable if they get caught. Inspections will be complaint-based.</p> <p>McKenna- Asked about the penalty for false attestation.</p> <p>Santamaria- This is part of the issue that comes with the short-term rental changes.</p> <p>Lepore- Suggested to add intermittent inspections.</p> <p>MacNab- Asked about new software company.</p> <p>Santamaria- We will not be able to enforce turnover. We have a new company to replace Granicus. Should be user testing by the end of November. Time-shares are in the grey zone. No corporations will be allowed. Existing corporate ownerships are grandfathered.</p> <p>A good attorney will be able to find a loophole.</p> <p>Cooper- Questioned how the Select Board can designate a town official or board the ability to grant a waiver.</p> <p>Smith- Asked what would qualify as a waiver.</p> <p>Santamaria- It looks as though the “hardship waiver” is missing in this bylaw. We have jurisdiction over the regulation, not the bylaw. The Board of Health can add what type of waiver.</p> <p>MacNab- As Regulators, we can endorse, not endorse or no opinion. It can’t be more stricter than what is already written.</p> <p>McKenna- Requested more time to review.</p> <p>Santamaria- If the Finance Committee does not endorse, the vote is 2/3. If they choose to endorse, the vote will be a simple majority. Suggested to discuss at the October meeting.</p> <p>Cooper- Suggested the Board stay clear.</p> <p>Smith- Asked what the purpose of review if we can’t change. If we were to oppose, it would make a difference. Should be commenting on sections that affect public health and safety.</p> <p>Santamaria- Will run a quick analysis on that and have that for the next meeting.</p> <p>MacNab- The consensus is to revisit in October.</p>
Action	None.
Vote	N/A

3. Update on Fertilizer Regulation, Enforcement and Education

Sitting	MacNab, Cooper, McKenna, Lepore, Smith
Documentation	Supporting documents and staff recommendations.
Discussion (4:29)	<p>Emily Molden, Director Nantucket Land and Water Council (NLWC)</p> <p>Mark Lucas, Nantucket Golf Club</p> <p>Santamaria- Last years’ Town Meeting Articles are still at the State. It doesn’t look like the ban from 2 years ago will pass. In 2012, the State gave all local Boards of Health on the Cape and Islands three years to alter their local regulations. After 2015 we were not allowed to change without a vote from the State House. A Fertilizer Advisory Committee was formed to draft a new regulation. Reps, Cyr and Fernandez, working on it trying to get it through committee. If it fails, it will have to go to Town Meeting, again.</p> <p>Lucas- The Regulations and Best Management Practices were meant to be living documents.</p> <p>Santamaria- Five training videos and tests should be available for the upcoming season, all funded by the NLWC. The videos will have subtitles in different languages.</p> <p>MacNab- How do we get information out to the homeowner?</p> <p>Santamaria- Information will be on the Health Departments webpage and YouTube. Looking to make it more readable for your average homeowner, possibly a new homeowner packet. Janet Schulte is working on a “Government 101” program for homeowners.</p> <p>Molden- Believes there is a lot more that can be done to help with fertilizer impacts. The biggest impact will be through education, regulations, and enforcement. Outreach for property owners and landscapers. Suggested reconstituting the Fertilizer Advisory Work Group. She asked if another position at the Town between the Health Department and Natural Resources Department that could oversee.</p> <p>Lucas- Agrees with Molden. Would like the Landscaping Community to have an active role.</p>

Lepore- Suggested license that you've taken the course to purchase fertilizer.

Santamaria- We would have to write the regulation and have the state review. To show a business license, we would have to change some Bylaws through Amy Baxter in Licensing.

Lucas- Suggested someone to work between Roberto and Jeff and with Amy and licensing.

Cooper- Wondered if property owners know or they just want beautiful lawns.

Santamaria- The bulk of the responsibility lies in the landscaper.

Molden- Suggests developing the licensing program on its own and maybe make some changes to the best management practices without having to amend the regulations.

McKenna- Suggested meeting with Landscapers to discuss concerns.

Molden- We would be interested in providing landscaper education in partnership with what the regulations and the best management practices are. And more homeowner education.

Smith- Asked if there was a safe nitrogen.

Molden- As far as fertilizer, a lot has to do with how much is applied under what conditions and over how much time.

Lucas- Some spray their fertilizer which is good because it's just going to the plant.

Molden- Encourage property owners to use more native plants that don't require fertilizer or irrigation.

Lucas- Include educational literature with the tax bill.

Santamaria- We are part of The Clean Water Coalition; three Town Department heads and three nonprofits.

MacNab- Suggested putting thoughts together and add it to a future agenda.

Action None.

Vote N/A

4. Review of Fire Department Cancer Report

Sitting MacNab, Cooper, McKenna, Lepore, Smith

Documentation None

Discussion (4:59)

Jim Burneka, Firefighting Consultant

Aeysha Kahn, wife of Captain Nate Barber

Lepore- We do not have enough firefighters to fight a fire safely. They are at an increased risk of exposure. Some firefighters live off -island and are unable to respond. The Firefighters Union contract states that the Town will pay for physicals and cancer screenings. That's not happening due to the high cost. Worried the Town would be liable if a firefighter develops cancer related to these exposures.

Burneka- There are different carcinogens and chemicals from gas, smoke, and soot. Just because the fire is out does not mean that scene is safe, even in the overhaul phase. Normally, firefighters conduct overhaul wearing a SCBA mask, an air mask. That does not happen with the Nantucket Fire Fighters. The long-term exposure is going to add up. My recommendation was to wear an SCBA mask with overhaul however, if your firefighter is exhausted and dehydrated, you're asking them to wear 50 – 75-pound pack. His fear is a cardiac issue. That has happened.

MacNab- The Town is hiring more firefighters. Housing and cost of living are factors.

Kahn- Her husband, Nate Barber, had a cardiac arrest as a result of the Veranda House fire. National Fire Prevention industry standards like oxygen tanks, medical personnel taking vitals, are not being followed. The 2018 Novak report states the Nantucket Fire Department is fully staffed which is not accounting for a fire. This cancer consultant report is referring to exposure to Fire Fighters at fires.

Lepore- If we had a larger Fire Department, they wouldn't constantly be exposed.

Smith- If the Fire Department is not fully staffed to handle medical emergencies and fires that's putting the public's health at risk.

Cooper- Suggested the Town give 1% of the 2% Land Bank fee to the Fire Fighters over the next two years.

Lepore- Wants to make sure they are getting cancer screening.

Santamaria- Will inform the Chief and Human Resources that the Board raised concerns for cancer screenings.

Action None.

Vote N/A

5. Update from Human Services Director on Behavioral Health Response and COVID Clinics

Sitting MacNab, Cooper, McKenna, Lepore, Smith
Documentation None
Discussion (5:23)

Jericho Mele- Director of Human Services, Town of Nantucket

Mele- He has been put in charge of a community health response to the suicide cluster this past June. Will be launching QPR (question, persuade and refer) training through local trainers. Will be targeting the youth demographic with training at “Our House” and to Town employees. Reached out to local organizations. Looking into instructors to train in Spanish and Portuguese. Will be able to connect those folks to Human Service Behavioral Health providers. Besides the QPR training, there will be a series of Grief Counseling and Survival panels. Hoping to get some collaborative grant writing. There has been a significant change in how the Department of Mental Health approaches this. Julian Cyr passed through several Behavioral Health related bills. As a result of the gap study conducted a few years ago, there has been a more collaborative effort and has seen a notable change in the past 3 years. We have received a good response to the recent request for proposal. The money will be available immediately.

The COVID clinic has been rescheduled for October 14th. If you do not receive direct confirmation that your appointment have been transferred, there are two more clinics immediately scheduled. Vaccine supplies are constrained than in the previous three years. The vaccine should be charged to insurance with no co-pay or no point of service cost. Sign up is available on the Town’s website: <https://www.nantucket-ma.gov/2284/COVID>. Clinics should end by December. Funding will end in February 2024.

McKenna- The online application for the appointment asks if you’d like the Flu shot or COVID.

Santamaria- The new RSV shot is available, but not on-island.

Action None.
Vote N/A

V. BOH APPLICATIONS REVIEW

1. 22 Hawthorne Lane, Betterment Release; 35 S. Cambridge St, Septic Loan Application; 305 Madaket Road, Septic Loan Application; 326 Milestone Road, Septic Loan Application and 8F Street, Septic Loan Application

Sitting MacNab, Cooper, McKenna, Lepore, Smith
Documentation Supporting documents and staff recommendations.
Discussion (5:39pm) **Santamaria-** These septic loans were under the old rules. Staff has no objections.

Action **Motion to Approve.** (Made by: Cooper) (seconded by: Lepore)
Vote Carried unanimously

2. 41 Tennessee Avenue, Septic Setbacks

Sitting MacNab, Cooper, McKenna, Lepore, Smith
Documentation Supporting documents and staff recommendations.
Discussion (5:40) **Don Bracken, Bracken Engineering.**

Santamaria- Setback for the soil absorption system, tight lot. No alternative. No objections

Bracken- An upgrade which doesn't meet the six-foot separation to groundwater. The variances to the lot lines are in order to achieve 150-foot separation between wells in that neighborhood.

McKenna- Abutters were given incorrect meeting information.

Santamaria- We have received no comments from abutters.

Action **Motion to Approve the Variance Request** (Made by: Smith) (seconded by: McKenna)
Vote Carried unanimously

3. 108 Surfside Road, Nitrogen Loading Credit

Sitting MacNab, Cooper, McKenna, Lepore, Smith
Documentation Supporting documents and staff recommendations.
Discussion (5:43) **Michael Connolly, Connolly & Associates, Inc.**

Santamaria- Subdivided lot is 40,000 square feet. No concerns.

McKenna- Questioned why they were reviewing.

Connolly- The lot has been recently recorded with the Registry of Deeds. Because it’s in the Wellhead Protection District must request a variance for nitrogen reduction.

Action **Motion to Approve the Nitrogen Loading Credit.** (Made by McKenna) (seconded by Cooper)
Vote Carried unanimously

4. Policy Discussion on Septic System Loan

Sitting MacNab, Cooper, McKenna, Lepore, Smith
Documentation Draft Septic Loan Program and application, staff recommendations.
Discussion (5:45) **Santamaria-** Staff recommends homeowners be required to choose the lowest estimate which might stabilize some of the funding. Secondly, the spirit of the Loan program is created to benefit year-round residents and year-round communities. We've been seeing a creep for second homes. Asking the Board for two votes; approve the new application and prioritize the loans for primary residents and that the loans that are for secondary residences be capped at a certain percentage. That percentage is up to the Board. Staff's recommendation is 50%.
MacNab- Concerned that the Board would be discriminating against off- island homeowners. Would like an opinion from Town Counsel.
Santamaria- This is allowed based on Barnstable County's Septic Loan Program. Can designate specific meetings as loan meetings for better prioritization.
Lepore- Agrees with the spirit of this program.
Cooper- Suggested to update the application to reflect the 50% change.
McKenna- Income level changed from \$150,000 to \$250,000.
Action **Motion to Approve the new application.** (Made by: Lepore) (seconded by: McKenna)
Vote Carried unanimously
Action **Motion to change the qualification for those applying for secondary dwellings to 50% of the cost of the septic loan pending approval by Town Counsel.** (Made by Lepore) (seconded by Cooper).
Vote Carried unanimously

VI. BOH DISCUSSION

1. Well Regulations Discussion

Sitting Cooper, McKenna, Lepore, Smith
Documentation Draft BOH Regulations for Private Wells 386
Discussion (5:58) **Jeff Blackwell, Blackwell & Associates**
Emily Molden, Nantucket Land and Water Council
Paul Santos, Nantucket Surveyors
Blackwell- The current relief procedures for lots that pre-existed the change in 1990 has been brought back into this draft. Updated changes and improvements recognizes science and testing of chemicals in the environment.
Molden- Believes that incorporating the State's new standards around PFAS and forever chemicals is very responsible. She appreciated the time to review the changes in the Regulations with Roberto.
Santos- Mr. Blackwell was instrumental in having that protection brought back into for the pre-1990 lots. Suggested to give a timeframe for those unaware of the changes before the effective date.
Santamaria- The recommendation is effective January 1st. This is aligned with the Short-Term Rental Regulations. It allows time for those who have current applications pending through the Planning and Zoning Boards to work through the process, pull permits without having to go back and pull permits again or update their subdivision plans. Another unforeseen consequence is Realtors. The required well testing could affect their closing schedule.
Mr. Blackwell recommended adding petroleum oil fuel storage tanks. We included all fuel tanks, including propane. We can add "sufficient quantity" to the Health Department's current Definitions Regulation. In Section 7 where it states prior to issuance of a well construction permit they need to provide a pumping test report, you can't provide a report prior to the installation so he said we should strike that and that I agree.
Blackwell- He raised a concern with Kathy LaFavre retiring, you lost a great resource. He suggested adding an additional layer of review before someone can obtain a building permit.
Santamaria- He will have to speak with the IT Department with existing permitting software.

Action **Motion to Adopt the changes in the Well Regulations with the one change to Section 7, removing of the pumping test report.** (Made by McKenna) (seconded by Cooper)
Vote Carried unanimously
Action **Motion to adopt the effective date January 1, 2024.** (Made by Smith) (seconded by McKenna)
Vote Carried unanimously

VII. ADDITIONAL DOCUMENTS USED

1. Draft BOH Minutes

VIII. ADJOURN

Action **Motion to Adjourn at 6:12 pm** (Made by: Smith) (seconded by: McKenna)
Vote Carried unanimously
Submitted by:
Cathy Flynn