



TOWN OF TISBURY

office of

THE BOARD OF HEALTH

PO Box 666, 66 High Point Lane
Vineyard Haven, Massachusetts 02568

MEETING MINUTES – August 24, 2021 – 4:00 PM

The Tisbury Board of Health (BOH) held a meeting on Tuesday, August 24, 2021, at 4:00 PM.

Due to ongoing efforts to prevent the spread of COVID-19, this meeting was held virtually. To join the Zoom meeting, enter ID #995 0446 3441 and passcode #762822.

Commissioners in attendance were Chairman Dr. Michael Loberg, Vice-Chairman Jeff Pratt, and Malcolm Boyd, Clerk. Ms. Maura Valley, Health Agent, Catie Blake, Assistant Health Agent, and Valerie Soushek, Administrative Secretary, were also in attendance.

Chairman Loberg called the meeting to order at 4:00 PM. Commissioner Boyd joined the meeting at 4:04 PM.

The meeting minutes of August 10, 2021 were approved as written.

HEALTH AGENT REPORT

- Joint meeting with Select board

Before the meeting, Ms. Valley reviewed the topics for discussion with the commissioners--

Considering the increasing COVID cases, many of which are breakthrough cases, should the Town's 350th-anniversary party be rescheduled? She will meet with Ms. Nevette Previd on Monday to discuss their COVID protocols and how difficult it would be to cancel/postpone the event if the rate of cases doesn't improve. Ms. Valley stated that the planning process could continue, but if the Town is still at substantial or high risk of transmission, postponement should be considered to which the commissioners agreed.

Ms. Valley would also like to begin the discussion of mandatory vaccines for Town employees with the BOS. She believes that Tisbury has a high vaccination rate among its employees, but a handful are not vaccinated. A decision or agreement is not expected today, but discussions around the BOS opinions and next steps should occur.

Chairman Loberg confirmed to the other commissioners that they wouldn't be required to vote unless the BOS requests a recommendation from them for the anniversary celebration.

Koppelman and Page, Town Counsel, provided a letter with their opinion on mandating vaccinations for employees.

The commissioners acknowledged that several issues would have to be addressed, such as those brought by a Union.

The commissioners are concerned about the high number of breakthrough cases even with a mask advisory; the upside of holding such a celebration doesn't warrant the risk.

The BOH meeting recessed while the commissioners and BOS met.

The joint meeting was called to order by BOS Chair Kristal and BOH Chair Loberg at 4:10 PM.

Ms. Valley explained the purpose of the meeting was to discuss the 350th-anniversary party given the current rate of COVID cases and to begin the discussion about mandatory vaccines for Town employees. In addition, she reviewed the BOH's position on the topic for a Town-sponsored event.

Mr. Kristal stated that it seems prudent to delay the event for maybe even a year. The health of the Town and Island is more important than holding such a celebration.

Administrator Jay Grande confirmed that the monies involved are not insubstantial, but for that part of the contract, they are not overwhelming that you wouldn't put public safety and health foremost. The total contract amount is well under \$50,000. Some materials may have been ordered already, but it is not critical to have this event; it can be postponed. Under the circumstances, people will be less inclined to enjoy the event considering the health situation. He concurred with the concerns and recommended postponement.

Selectman Gomez concurred with postponement and being proactive.

Selectman Cutrer concurred with postponement; he believes there would be a low participation rate.

The selectman voted unanimously in favor of postponing the celebration.

Ms. Valley stated that all Island towns are considering an initiative mandating vaccinations for Town employees. However, she was surprised to learn that a handful of Tisbury employees are not vaccinated and believes it is necessary to discuss the possibility of imposing such a mandate jointly with the BOH and BOS.

Mr. Brian Mays stated that other communities are in the introductory stage of discussing such a mandate. Things picked up in mandating vaccines for employees after the spike of cases over the July 4th holiday. Since the Federal government and Governor Baker ordered a mandate for Federal and State employees, there's been more discussion at the local level for municipalities. Some considerations need to be worked through if the Town is going to proceed with a vaccine mandate. There are more steps to go through when you have a workforce where employees are represented by a union or bargaining unit, i.e., mandatory bargaining obligations that must be satisfied before the Town can assess a new term or condition of employment. That process can be somewhat involved, and it can take some time to either negotiate to resolution or impasse before you can implement a change in working conditions. This legal requirement does not apply to non-union employees. Although, typically, the non-union employees will agree to fall into whatever is settled on with the union employees.

He knows of no communities that have mandated it yet, but it will be more of a talking point now that the FDA has fully approved the Pfizer vaccine.

Ms. Valley confirmed that the West Tisbury BOH voted to suggest a mandate. Their BOS then called a meeting of the departments, which voted to move forward with requiring vaccinations. Selectman Gomez noted that West Tisbury does not have Union.

Mr. Mays confirmed that it is legal to require employees to disclose their vaccination status. And there are limited circumstances, i.e., a medical condition and religious belief, for example, for being vaccinated.

Ms. Connie Alexander, a Tisbury Planning Board member, was in participation.

Ms. Valley stated that a mask mandate for the schools would fall under the Superintendent's jurisdiction.

Chairman Kristal stated that the matter should be taken under advisement.

All the commissioners and selectmen agreed that communications would continue as initiated by the BOH. Accordingly, the joint meeting was closed at 4:35 PM.

The BOH meeting reconvened and was called to order at 4:44 PM. Commissioner Boyd was not present.

OLD BUSINESS

- 25 Goethals Way

Attendees: Howard Miller, Esquire; William Bruno, abutter; Edith Goethals, property owner, were in attendance.

Ms. Valley reminded the commissioners that the matters at hand are to reconsider the number of existing bedrooms and the occupancy of the dwelling. She further clarified that the Tisbury BOH coastal district regulations say five occupants per three-bedroom dwelling. However, title 5 allows two people per bedroom for a total of six occupants. It is acceptable, though, for Coastal district regulations to be more stringent.

Mr. Miller stated that it is up to the Commissioners to decide internally on reconciling the difference between the regulations, not the Goethals as suggested by a commissioner.

Commissioner Boyd joined again at 4:52 PM.

The commissioners confirmed that they would address the difference between the coastal district and Title 5 regulations at a future meeting. And a public hearing would also be scheduled.

Mr. Miller stated that Mr. Bruno's appeal was regarding the number of existing bedrooms and whether the health agents and building inspector's assessment of the bedroom count were correct.

Mr. Bruno responded to the statement about the inconsistency between Title 5 and coastal district regulations--it is specifically mentioned in Title 5 that they should be considered along with the coastal regulations. The coastal regulations clearly require stricter rules, so it is consistent and stipulated in Title 5, section 15.001, paragraph 4 that it should be read together with MGL chapter 111 section 31. There are several elements in the coastal regulations for which the Goethals' property is out of compliance, not only with the number of bedrooms and occupants. The lot size and the distance between the septic systems are other criteria. As ordered by the BOH, a Title 5 inspection given the coastal district regulations is insufficient for that property for Title 5 because it does not satisfy all the other criteria. It is not appropriate to waive any of the criteria as it would severely impact the environment.

Ms. Valley stated that the distance between the septic systems raised by Mr. Bruno does not apply in the case of an existing system; therefore, it is not an item for discussion. The matters at hand are to reconsider the number of existing bedrooms and occupancy of the dwelling. She confirmed that her inspection conducted earlier this year confirmed that the changes approved by the commissioners for the property to be considered three bedrooms were made precisely as the floor plans submitted by the Goethals' architect.

Mr. Ross Seavey, Tisbury Building Inspector, also confirmed their findings at the site visit. They were consistent with the purpose of his inspection with Ms. Valley; they had a BOH-approved floor plan, and the house's layout matched it.

Mr. Bruno reminded the commissioners of their own regulation 9.1.1 that defines a bedroom as approved at an open hearing. It is stricter than Title 5. If that is waived for this instance, he stated there ought to be a request for a waiver and that the only way to meet their regulation is to reduce livable space by removing windows, air conditioning, and so on.

Ms. Valley explained that the commissioners have always considered the lack of privacy a factor when determining bedrooms. Therefore, in this case, the commissioners allowed the front room to have part of the wall removed for a 7' opening so that it no longer afforded privacy and wouldn't be counted as a bedroom. Mr. Bruno is saying that under BOH regulations, that room should be counted as a bedroom and that the privacy factor shouldn't be a consideration; however, this isn't consistent with past decisions for similar reviews.

The commissioners motioned to recognize the dwelling as three bedrooms based on the recent site visit and in coordination with examining the architectural plans. Furthermore, the stipulation of the coastal regulations for an occupancy of 5 people per three-bedroom dwelling applies. Commissioner Boyd added that this decision is based on a long-standing traditional view. The commissioners voted to approve the motions unanimously.

- COVID update

The commissioners applauded the select board for agreeing to postpone the 350th-anniversary due to the current spike in COVID cases.

Ms. Valley agreed to stay apprised on initiatives for mask mandates in other towns and schools to provide updates to the commissioners and BOH.

- Nitrogen regulations

There were no items to discuss currently.

- Owen Little Way

Ms. Valley reported that the first posting advising against swimming within 24 hours after a rain event went up yesterday. Ms. Blake collected water samples yesterday, and they came back without any problem today. There was heavy rain last night, so the sign(s) will stay in place until tomorrow morning.

There is a lot of work going on with the dock, and Administrator Grande has asked consultants for the Town to investigate the outfall pipe and what could be done to mitigate the issue of road runoff. Ms. Blake collected water samples yesterday, and they came back without any problem today.

Chairman Loberg believes the BOH has an obligation to work with the water resources committee to conduct a dye test at the collection basins to see if any septic systems at specific homes need attention.

- Public health funding

The commissioners voted to use some of the Cares Act funds to help with the public health infrastructure.

- House Bill 910

The commissioners voted in favor of Ms. Valley's proposal to send a letter supporting Dylan Fernandes' bill on pesticide use and the requirement for the boards of health approval on such usage.

BILLS AND PERMITS FOR APPROVAL

Wampanoag Environmental Laboratory / water testing / \$240

Due to a loss of internet connectivity, the Board of Health commissioners adjourned at 5:25 PM.

Respectfully submitted,

Valerie Soushek
Administrative Secretary

Document(s)

The Board of Health commissioners accept the meeting minutes, dated August 24, 2021, as presented.

Date: _____ Signed:  _____
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