

DATE: November 16, 2021
TIME: 2:29 PM

Board of Health Meeting Minutes
September 20, 2021

A meeting of the Select Board was called to order at 7:00 pm by Chair Adam Dash. Vice Chair Roy Epstein, and Mark Paolillo were present, along with Town Administrator Patrice Garvin, Assistant Town Administrator Jon Marshall, Town Counsel George Hall, Town Counsel Brian Maser, DPW Director Jay Marcotte, and Director of Health Wesley Chin.

Donna David, Chair, called to order a Joint Meeting with the Board of Health and Select Board with a quorum of members (Julie Lemay, Adrienne Allen and Donna David).

In keeping with Chapter 20, of the Acts of 2021, the extension of the remote participation portion of Governor Baker's Executive Order from March 12, 2020; - "Order Suspending Certain Provisions of the Open Meeting Law" – The Joint Select Board / Board of Health Meeting of September 20, 2021 was held by Remote Access through ZOOM.

COVID Update – Discussion and possible vote on Board of Health recommendations on the amended mask mandate and employee vaccine mandate

- Dash said this was a continuation to amend the mask mandate adopted in August 2021. The new mask order recommended by the Board of Health proposes a fine against businesses, rather than individuals, and adds a mask mandate for common areas of multi-unit buildings. There is also a section that mandates vaccinations for all Town employees.
- Donna David said the new mandate adds an extra layer of enforcement with businesses. It is similar to how complaints about food establishments are handled. The Board of Health feels it is the responsibility of the owner of the business or manager of the building to enforce the mandate.
- Dash said the main question for the new mandate is who we want to fine.
- Adrienne Allen said the decision about whether the fine should be levied against businesses or individuals, is still open to discussion.
- Paolillo wanted to make sure that all businesses have been notified of the mask order. Chin said we notified anyone who has a business license with the Town. Paolillo thinks we need to put forth a process to ensure that signs are posted. Donna David suggested that instead of physically visiting every business, the Town could send a second email, and requires businesses to respond. Paolillo thought that this would be acceptable.
- Epstein said that he looked at the incidence data from this past week, and the incidence rate is still trending downward. He's concerned about constructing an unworkable enforcement mechanism. He doesn't think that it is viable for the Board of Health to be present at the time of the violation. He reread the penalty provisions from last year and there were no penalties included and he said compliance was pretty good under that mandate.
- Donna is concerned about store owners who will not make people wear masks. She said she still plans to send an employee to investigate any violations. Even if we are not able to see the violation, we plan to follow up and investigate the complaint. Donna David reported that there are some businesses that refused to make people wear masks.

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PUBLIC COMMENTS on mask mandate:

Bill Trabilcy said there are people sitting in restaurants with nothing on their face. He said he doesn't understand this. Why are we fining a person without a mask for five minutes in CVS and then people in restaurants don't wear masks.

George Hall said the fine is largely symbolic. If there is a business that is actively resisting the order then the order provides the option to penalize. He thinks having a fine on the books against a store owner makes sense to him, but he cautioned that before a fine is levied, the business would have to fall way short of compliance.

Daren Muckjian, owner of the Toy Store, said he feels the Health Department did not do a good job of alerting businesses. The Town does not have a list of all small businesses. Small businesses are all struggling and for the Town to fine a small business, is not tenable. If there is a fine against customer, they won't come back. He said he is not against mask wearing. He said it's up to adults to do what is right.

Motion was made to table the mask mandate discussion until after the Verizon Public Hearing. Motion was approved by a vote of 3-0.

Motion was made to move mask mandate discussion back to table. Motion was approved by a vote of 3-0.

- Dash and Paolillo suggested that the fine for non-compliance of mask wearing be levied against the individual rather than the business.
- Dash said he would like to have the mask mandate on the books to spur compliance. The Select Board members agreed that they would prefer to fine the individual for any infringement of mandate. But businesses would be responsible for the signs.
- Donna David said she could support that change.
- The violator would be person not wearing a mask or the business not posting the sign.

The group decided that the language of the order needs to be modified as such:

- The written notice and fine will be directed just to the businesses that fail to post signs. Remove the last sentence on order "Establishment staff must supervise and oversee the compliance of this mandate."
- All bullet points should be directed toward customers, not businesses. The first sentence under the section "Violations" needs to be removed. George Hall suggested that the first sentence under Violations be changed to read "any violation of this order pertaining to the requirement of posting signage and making employees wear masks will be punishable by fines as follows."

[The Board of Health and the Select Board approved the amended mask mandate with a quorum of members.]

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The second part of the mandate is the Town employee vaccinations.

- The Board of Health recommended that all Town employees be vaccinated. They said they will leave it up to the Town to work out the details of this requirement. For the employees that refuse vaccination, a waiver could be allowed, but they may need to be tested once a week. They are hoping a national mandate for municipal employees comes through the Biden Administration.
- George Hall said that if a federal mandate is issued by OSHA, then the Town would not have to do their own bargaining about whether to impose the mandate.
- The vaccine mandate would be a recommendation, not a requirement by the Board of Health. Then the Select Board would determine how to implement the recommendation.
- Brian Maser said that the declaration from the Biden Administration about vaccine requirements for employees of companies with over 100 employees, may apply to public employers. This emergency rule will probably be issued with four to six weeks.
- Garvin talked about doing a survey with Town employees to get the percentage of employees who are fully vaccinated.
- Epstein asked if the schools have reached an agreement with teachers. Garvin said a MOU came out from the Belmont teacher's union and it includes a religious and medical exemption. If there is an OSHA mandate, then Belmont could issue a uniform plan.
- Maser said each Town has enacted different rules. Hall said that Belmont is further along with updating mandates than other Towns. Garvin said since all the union contracts are currently open for review it may be best for this decision to be revisited at the Oct. 4th Select Board meeting. Maser said it is allowable to survey employees about vaccination as long as there are no further questions included in the survey. He said it would also be allowable to collect vaccination cards.
- The Town Administrator's office will poll employees about vaccinations and Maser will get back to the group with any updates. It was decided to wait until the Town employee survey is conducted before any decision is made about the vaccine mandate.

The Board of Health adjourned with a vote of 3-0.

Respectfully submitted,

Donna S. David, Chair