

Minutes of the Nebraska City Board of Health
March 23, 2020
Rowe Memorial Public Safety Complex

The Nebraska City Board of Health met in regular session inside the Rowe Memorial Public Safety Complex, 1518 Central Avenue, Nebraska City, NE via Zoom at 5:00 PM on Monday, March 23, 2020. Notice of the meeting was given in advance by posting in at least three public places, the designated method for giving notice, as shown by the Certificate of Posting Notice attached to these minutes. Availability of the agenda was communicated in advance to the media, the Mayor and Board of Health members of this proceeding and said meeting was open to the public.

Mayor Bryan Bequette called the meeting to order at 5:00 PM. The Mayor publicly stated to all physically in attendance that a current copy of the Nebraska Open Meetings Act was available for review and indicated the location of such copy posted in the room where the meeting was being held. He noted this meeting is also being broadcast in accordance with an Executive Order that was issued by the Governor on the 17th of March, 2020; this allows meetings under the current Open Meetings Act to be conducted via teleconference and videoconference; the City has implemented the process through Zoom. If the listening audience wishes to participate we have that ability. However, please keep microphones muted until you are introduced by the moderator, Andrew Snodgrass. Upon roll call the following answered present: Dr. Brad Vasa, Gregg Goebel, David Lacy, Wendy Snodgrass, and Mayor Bryan Bequette. The following City Officials were present as well: City Administrator Grayson Path, City Attorney Drew Graham, Utilities Director Jeff Kohrs, City Clerk-Treasurer Randy Dunster, Paramedic Manager Andrew Snodgrass, Commissioner Gloria Glover, Commissioner Paul Davis, Commissioner Vic Johns, and Deputy Clerk-Treasurer Patricia Moore.

Mayor Bequette noted the 1st item of business is the approval of the March 16, 2020 meeting minutes. Gregg Goebel moved to approve the minutes as written. Dr. Brad Vasa seconded the motion. With no further discussion, upon roll call the following voted YES. David Lacy, Gregg Goebel, Dr. Brad Vasa, and Mayor Bryan Bequette. Voting NO: None. Wendy Snodgrass abstained. Motion carried.

Mayor Bequette noted the 2nd item is a presentation from our City Attorney regarding the authority and scope of the Board of Health (the Board) pursuant to State Statute and City Code. Drew Graham, City Attorney, addressed the Board and provided the Board a memo on said topic. He noted, the Mayor asked him to look into the scope and authority of the Board, specifically as it relates to the City Council (i.e. what that looks like, the basis, and their authority). Under the Nebraska Statutes, the Board is created under 16-238 (Spread of disease; regulation; board of health; creation; powers; duties). He emphasizes the Board shall enact rules and regulations, having the force and effect of law, to safeguard the health of the people of such city, they shall have the power to enforce the same rules and regulations, and they shall provide fines and punishments for the violation of such rules and regulations. Graham discussed authority further, more specifically related to the original mandate which is to prevent the introduction and spread of contagious, infectious, or malignant diseases into the City. He further discussed City Code Sections 18-18 through 18-25, noting the language is a restatement of the State Statute. No additional guidelines are found in the City Code related to the Board. Looking beyond that, under State Statute 16-246 (General ordinances; authorized; jurisdiction), the City Council has overlapping powers for a number of reasons. One of those reasons is the promotion of public health and safety of the inhabitants of Nebraska City. It's a seemingly similar mandate to the Board. To do this, the City also may impose fines and penalties for the violation of any ordinance enacted. Also under 16-240, the City may make regulations to secure the general health of the City. Graham noted beyond the listed Statutes he was unable to find any real guidance into what a Municipal Board of Health should look like or should do. It is his opinion that ultimately the seemingly higher authority rests with the Council to protect the health of the City but the Board has been created by Statute and has been given the authority and scope to create rules and regulations. He does not read the Statute to necessarily put these two bodies in conflict with each other or to say that the creation or existence of the Board takes anything away from the City and vice versa. His assumption in

reading this is the Board is given this authority for a couple of reasons. 1. Hopefully their applicable experience to issues of health and safety in that the Chief of Police is a mandatory party and a physician is a mandatory member of the Board. Therefore, presumably there is an experience that's built up that helps with rules and regulations related to health and safety of the City. 2. Gives the ability to act quickly in an emergency situation such as this if there is another entity other than say the City Council that has the ability to enact rules and regulations. In his research, not all City Boards of Health independently enact their own rules and regulations. For most municipal Boards of Health they act in more of an advisory manner but he does not believe that is a limitation that can be placed on them. Graham gives nuisance example. He noted as long as the City Council and the Board appear to be working towards the same general goal he doesn't see any issues in either body enacting a certain amount of regulations and he doesn't see any reason to limit the authority or scope the Board is given under the Statutes. Graham opens it up to questions... None asked.

Mayor Bequette noted the Mayors of different size communities did have different teleconferences with the Governor on Wednesday. The Governor stated any Municipality, any County Government, any Sub-Government entity that published a directive, if it were more stringent than the State then we would have the State's full support if we saw a local need to publish a regulation on our Board's part. He noted the director of the Nebraska Department of Health and Human Services published the 1st directive healthcare measure which affected ESU 3 & 19. It was more stringent and was a directive rather than a guide. Our area, the SE District, is operating on State guidance so we are hoping all are adhering to the guidance of less than 10. We can encourage others to meet the guidance but if it becomes necessary we could, being the Director of the SE District, issue a DHM (Directive Healthcare Measure) or we could for the City of Nebraska City issue a regulation that would also place restrictions on it.

Graham addressed the Board; he noted there is a hierarchy of the type of decisions or documents that are put out by each entity. The Mayor is correct, the City always has the option to regulate beyond what the State says but never the option to regulate less than what the State says. There are recommendations or opinions that could be issued, they are NOT binding; they are a recommendation or opinion. The next step would be a directive. For the City we will not issue a directive because there is no entity lower than you. A directive states you have to meet this standard, you're essentially free to choose how you are going to do that. If the Governor issues a directive that says no groups of 10 or more, it's up to the smaller sub-divisions how do we enforce 10 people or less. Either the State, the County, Region, or the City can issue a regulation which then would become a binding mandatory document. The State could issue regulations which would in essence bind the City as well. Per question by Mayor Bequette, he noted the directive was issued after the 2nd community spread... Yes per Graham; he noted the State has established milestones at which point they have stated there going to issue such directives. He believes most related to community spread cases.

Mayor noted item number 3 on the agenda is discussion/action regarding a status update on the CoVid-19 situation; potential tasks, logistical needs and communication.

Grant Brueggemann, Director for SE District Health Department dialed in through Zoom. He advises across the US there are approximately 42,000 cases. There are 50 confirmed cases in Nebraska; 3 have been from community spread (1 in Sarpy County and 2 in Douglas County). In his district, there is 1 case in Nemaha County; the individual traveled from Colorado and is self-isolated. No cases have been reported in Otoe County at the time of the meeting. Social distancing; staying home when ill, and good hygiene are still highly recommended by the CDC. Brueggemann noted the US is now 3rd in highest number of confirmed cases. Dr. Brad Vasa, Board physician, addressed testing in Nebraska City. He noted they can order testing but turn-around time is slow. He also noted they have a set of protocols they go through when someone comes in. If they meet all the criteria, they can order a test. Ideally would like the rapid testing; just not there yet. Vasa further noted that's probably why we don't have a positive test because we haven't tested that many due to the availability of testing. A lot of discussion on testing concerns is had among Vasa, Brueggemann. The Mayor noted a lot of assets are

going to other States who have greater need than Nebraska. Also, the need for N95 masks is high. The Mayor further noted we have 1 confirmed case North of us in Cass County, cases to the West of us in Lancaster, 1 case to the South of us in Nemaha, and as of Friday afternoon there were no cases to the East across the river in Iowa.

Gregg Goebel of Emergency Management provided an update. He noted they continue to have their ongoing meetings with the different communities within the County. Otoe County is going to sign their Declaration of Emergency tomorrow (potentially Commissioners meeting); it will be sent to the State. Syracuse has already signed a disaster declaration and there are 2 more villages that are in the process of doing so. He noted this is just a presumptive action, nothing they are concerned about, just getting it into place with the State and Federal level before we get inundated by what's happening. They are trying to reach out to Fremont County IA to set up a regular meeting/conference call.

Grayson Path asks of Goebel is Otoe County Declaration just the County or does it also include the municipalities within the County or just the non-municipal area of the County. Goebel replies how it is written it will cover all the municipalities/villages within the County but the State and Fed have asked them to ask the individual groups to sign their own if they want to. If not they are still incorporated under the County.

Graham addressed the matter, he is not sure if they can be; he believes the City from a legal standpoint would have to make their own Declaration based off of the way some of the Statutes are written (excluding incorporated municipalities from certain county operations).

Mayor Bequette noted that with some of the cost reimbursements especially with FEMA and Emergency Management we may need to. He believes on the small business loans the National/State declarations cover small businesses for that. All of our small businesses are already covered under those 2 declarations. The City is prepared to issue a Declaration when needed. Graham noted it would be better for the City to have our own Declaration whether that's now or later.

Grayson Path provided an update on the City Departments. He noted our concern has been with Families First Coronavirus Response Act (FFCRA). It affects our employees/operations with the expanded FMLA and the paid sick leave. He noted while he was out of the office, Drew quarter backed the process with Patty and staff. Anyone with less than 500 employees, it is law so we kicked that in gear. We have been informing staff but still waiting on the Department of Labor to send out their notices (expect that to happen on Wednesday). A few employees are already using the expanded FMLA. For Library, they are still working under restricted access use. Commissioner Wehling sent the Mayor and himself a report on parks/rec and will probably be providing that at tonight's City Council meeting. Those departments are mostly outdoors so continuing status quo. The Golf ProShop has made changes by limiting access by 10 or less people; not serving food unless pre-packaged; even removed pieces you would touch on course as well. Street Department same processes. City Hall restricted access; people can still come in but have signage up noting if ill, etc. please call ahead. Fire/EMS, as 1st responders, implemented limited access to their area. Police Department has changed some of their contact as well. Chief can advise.

Jeff Kohrs provided update for Utilities. He noted they have been operating as normal; however, closed main business office to public. They still provide service but have restricted access to the building. They are trying to protect staff as best as they can. He mentions the expanded FMLA and the paid sick leave, Drew informed them of that. Got notices out to most of their employees; will finalize the rest tomorrow.

Andrew Snodgrass provided an update for EMS. He noted they are as ready as can be; Dr. Vasa, himself, and the Fire Chief have met 1-2 times per week recently. N95 masks have been donated as Dr. Vasa alluded to (have to be approved by FDA, home-made won't work). Expired but going on CDC guidance. He is continuing to work with Greg and SE District on contingency plans.

David Lacy provided an update for the Police Department. He noted they get regular briefings on what they should and shouldn't be doing (all respective departments driving point home). Officers do state less and less people on the streets. However, with school being out they are seeing more kids on the street but smaller groups. Police Department has put together cleaning kits for the cars... asking to keep them clean. When they depart their respective shift they are to clean before handing it over to the next shift. Request to speak with public on phone if not an emergency.

The Mayor noted things seem to be slowing down; quiet weekend. Still gets reports, etc. but for Otoe County...

Dr. Vasa addressed the Mayor's question on how things are at the clinic. He noted they are trying to do more tele medicine, especially in the vulnerable population. They've split the clinic, designated 1 hall for well visits (continuing the well check visits so they can continue to get their vaccinations) and 1 hall for those who are ill. Trying to expanded their virtual visits, again especially for the elderly and the vulnerable. Danger of this virus, it lives on surfaces much longer than most of the other ones. The other thing is you carry it and spread it before you get sick. Those are reasons for why it's spreading fast; hopefully self-imposed restrictions have been timely.

Grayson noted for the City, as a public entity, we are going to try and remain open for as long as possible. Even when we get the 1st case in Otoe County, we are going to continue to provide services the best we can but with safety measures in mind.

The Mayor noted no action from the Board at this time but will continue to monitor, listen to Grant, Gregg, the hospital. We are sharing a lot of information. Hope that folks continue to be patient with staying at home due to not being out of it yet. We are scheduled to continue to meet next Monday.

Dr. Vasa noted he spoke with Dr. DeFreece prior to the meeting. He wanted to relay the hospital is working on getting more testing. If you come to the hospital, only 1 family member will be allowed to visit patients in the hospital. They want to discourage people from physically coming in; more tele appointments if possible. If they do, they will be separating well from ill. There are still no confirmed positives in Otoe County.

There being no further business, the meeting was adjourned at 5:42 PM.



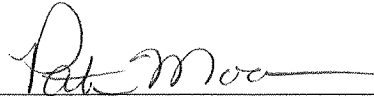
Patricia Moore, Deputy City Clerk-Treasurer

NEBRASKA CITY BOARD OF HEALTH

NOTICE IS HEREBY GIVEN, that the regular meeting of the Nebraska City Board of Health will be held on **March 23, 2020 at 5:00 P.M.** via a video conference on the Zoom.com platform. The meeting will be open to the public, accessible by visiting the web address listed here: **<https://zoom.us/j/580692562>**. An agenda for such meeting, kept continuously current, is available for public inspection at the office of the City Clerk at City Hall as listed below.

Agenda:

1. **Approval of the Board of Health March 16, 2020 meeting minutes.**
2. **Presentation regarding the authority and scope of the Board of Health pursuant to State Statute and City Code.**
3. **Discussion/action regarding a status update on the CoVid-19 situation; potential tasks, logistical needs and communication.**



Patricia Moore, Deputy, City Clerk-Treasurer

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Board of Health may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close.

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