

Town and County of Nantucket
ROADS AND RIGHT OF WAY COMMITTEE

Posted Meeting of
April 18, 2023, at 4:00 pm
Held by Zoom Videoconferencing

FINAL AND APPROVED MINUTES

1. Call to Order, Approval of the Agenda, Approval of Minutes, and Public Comments.

A. Chair Bill Grieder called the meeting to order at 4:02 pm. In attendance were Committee Members Rick Atherton, Ed Gillum, Bill Grieder, Rob Ranney (left at 4:25 pm), Allen Reinhard, Lee Saperstein, and Phil Smith; there was a quorum at all times. Also in attendance were Mike Burns, Transportation Program Manager, Didi Coyle (Surfside), Lynn Filipski ('Sconset), Bruce Mandel (Madaket), and Christine Petrella (Surfside), Guests. All were established by roll call.

Absent: Nelson, "Snookie," Eldridge, and Nat Lowell.

The meeting was recorded and can be viewed on the Town's You Tube site (on Town's main web page as "Watch Meetings Live", select "Playlists" then look for "Roads and Right of Way"),
https://www.youtube.com/watch?v=5tI8DlBV38I&list=PL49sKqpy7VAi_AAzhvnU4I5DTnhiVDj1&index=33.

B. Approval of the Agenda. The agenda was approved unanimously by acclamation.

C. Public Comments.

The guests said that they would hold their comments until the relevant agenda item. Phil Smith noted that he had a problem with the Zoom sign-in. Bill Grieder acknowledged that there were two links given but only one of them worked. He said that he would see that this was fixed before our next meeting.

D. Approval of the minutes of the meeting of March 21, 2023.

Rick Atherton asked, before the minutes were approved, if the easement for Stone Alley included the entire alley. Lee Saperstein said that it did and the plan attached to the minutes showed the easement as a fine grid in the alley; it goes from Orange to Union Streets and from edge to edge. Lee Saperstein noted also that an incorrect sentence in the section on the Harbor Way had been removed. Allen Reinhard then moved approval of the minutes of the meeting of March 21, 2023, Rick Atherton seconded, and the committee voted positively by

roll-call vote to approve them. Ed Gillum abstained because he was not present at the February meeting.

2. Report from Mike Burns, Transportation Program Manager.

Bill Grieder and several others welcomed Mike Burns back to Nantucket. In turn, he said that he was glad to be here; his title is Transportation Program Manager, which is a slight change from the one on the agenda. He has been asked to speak about motorized bicycles on bike and multi-use paths, which is the subject of Warrant Article 72, “Bylaw Amendment: Motorized Transportation Devices,” page 95 of the Annual Town Meeting Warrant. It was noted that Bruce Mandel, who was present, moved this article.

Mike Burns admitted that he was still studying Massachusetts law on motorized bicycles and scooters and that he had learned a lot. The law was amended on November 8, 2022, to prohibit devices capable of going faster than 20 mph from bike paths. All e-devices are prohibited from sidewalks and walking trails. On January 1, 2023, all e-bikes must be labeled with their designated class and maximum speed (85 MGL 11B, 11B1/2 and 11B3/4; 90 MGL Sections 1B-E). The maximum speed of an e-bike is limited to 28 mph. Later in the meeting, Phil Smith suggested that the fastest ones be fitted with a speed governor. Mike Burns added that the bike paths on Nantucket were designed for maximum safe speeds of 20 mph. He acknowledged that enforcement of these speeds is problematic.

MassBike (<https://www.massbike.org/ebikes>) has posted the following information about e-bikes:

“Current E-Bike Laws in Massachusetts

As of August 10, 2022, the e-bike definition language was signed into law as amendments to the Transportation Bond Bill (H.5151) to include Class 1 and Class 2 definitions for e-bikes. This law went into effect 90 days from signing, on November 8, 2022.

CLASS 1: Bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the e-bike reaches 20 mph.

CLASS 2: Bicycle equipped with a throttle-actuated motor that ceases to provide assistance when the e-bike reaches 20 mph.

Note: MassBike will continue to advocate for a Class 3 definition in order to match MA law with federal definitions and statewide regulations set by the Department of Conservation of Recreation.”

The fastest bikes are deemed to be Class 3.

Phil Smith started the committee discussion by asking if the committee was going to form an opinion on Article 72. Bill Grieder replied by saying that the initial step was to gain information, which is happening at this meeting. An opinion is still a “live issue.” Bruce Mandel added that Massachusetts accepts a stricter bylaw in a local jurisdiction. Lee Saperstein noted that the Finance Committee had held a vigorous discussion on this article before declining to support it. Those in favor of e-bikes spoke to their environmental benefit.

The Bicycle and Pedestrian Advisory Committee, BPAC, chose also not to endorse the article. Lee Saperstein asked if a license was required to operate e-bikes on roadways. Mike Burns explained that Class 1 and 2 bicycles are not defined as motor vehicles, hence there is no need for a driver's license. Bruce Mandel added that Nantucket requires the bicycles to be registered with the Town Clerk. When asked, Bruce Mandel said that he might arrange for the article to be called at Town Meeting.

Returning to the question of a committee position, Rick Atherton suggested that, if asked, we would reply that the Committee has a continuing interest in the matter. There is a real concern for safety. Allen Reinhard noted that if e-bikes were not allowed on bike paths, they would most likely end up on the roadway. There are many questions in need of resolution; it is hoped that the BPAC will advise appropriately. Bill Grieder asked if a formal opinion should be crafted. The response was "no" but if asked at Town Meeting, the chair should reply with a statement of concern for safety and for consistency with the findings of the BPAC.

3. Report from Ken Beaugrand, Nantucket Real Estate Specialist.

Ken Beaugrand was not present. He will be invited to the next meeting.

Didi Coyle, however, spoke up about her concern for the walking path between 51 and 55 Nobadeer Avenue in Surfside that leads to the beach. Lee Saperstein said that he would check the Master Chart of Public Way Monuments, which may be found on the Committee's web page under "Helpful Information" at the bottom of the page. Indeed, the way has been identified; the markers shown by Didi Coyle are an older style that may have been installed as much as 50 years ago. Brush cutting will be needed to make the way user friendly. Incidentally, on the other side of Nobadeer Avenue, there is a paper way and walking trail between numbers 50 and 54, which is not included in the Master Chart.

4. 'Sconset Bluff Walk: Committee Report.

Bill Grieder said that Lynn Filipski, President of the Siasconset Civic Association, has supplied us with text for etiquette signage at the 'Sconset Bluff Footpath, which comes from their web site, [Siasconset Civic Association - Bluff Walk Etiquette](#), and is attached. He then asked for a report from the 'Sconset Bluff subcommittee and Ed Gillum spoke up. The subcommittee members like the text although it is unclear how cell-phone usage can be restricted. They have walked the path and have concerns about encroachment by landscaping into the path. The suggested hours, 7:30 am to dusk, which are the same as for the playground below in Codfish Park, are good. They noted that licensed tour groups are still led onto the path and they will continue to advise the tour-group operators of the rules of use on the path. Lynn Filipski explained the rules suggesting that they were simple but impactful. She said that the Nantucket police send a Community Service Officer, CSO, to the bluff from time to time. The CSOs have the potential to be helpful in advising walkers of

the rules. Bill Grieder mentioned the tourist map given out by the Town's Visitor Center and asked if the Civic Association has asked that it be amended to show the rules. She said that they have tried unsuccessfully.

Ed Gillum said that there is a concern on how best to publicize the rules without unintentionally over publicizing the path. Reflecting on signage, Lynn Filipski said that they are experimenting with inserting a QR (quick response) code onto the public sign that will provide a link for smart phone users to much more information about the path. Bill Grieder asked Ed Gillum, for the subcommittee to bring to the next meeting a formal motion of support for the etiquette text. Phil Smith said that it should include a message to tour-group operators.

3. Real Estate Matters, Additional Points.

Christine Petrella, Surfside Civic Association, asked if the committee knew what was happening at 18 Nobadeer Avenue, where a new house was being constructed. The activity is blocking an adjacent walking trail that runs along the paper way known as Woodbine Street. A review of the Town's GIS map shows the footpath meandering along the way and occasionally encroaching onto private property. Woodbine Street from Nonantum Avenue to the Beach is marked as a public way. Lee Saperstein suggested that the Planning Director would know more about the future of the paper way portion of Woodbine Street.

5. Harbor Walk: Subcommittee Report.

Bill Grieder asked Lee Saperstein to relate what he had learned from ReMain about their report on the Harbor Walk. His response was that, lately, there has not been a lot of activity from ReMain. He has received an e-mail from them, attached, indicating that ReMain's principal concern was the walkway south of Commercial Street. Allen Reinhard recalled that the Land Bank had caused ReMain's interest in the Harbor Walk and that the consultant's report that they commissioned was now in the hands of the Land Bank.

In response to Bill Grieder's question about Chapter 91 issues, Phil Smith said that he was now officially a member of the Harbor Plan Nantucket and Madaket Harbors Action Plan Update Committee, for which Linda Williams is chair and he is vice-chair. They have support from Jeff Carlson, Director, Natural Resources, and Tara Riley, Town Biologist. They are focused on the items remaining from the earlier Harbor Plan. For instance, their recent action was to define the boundaries of the Island's two major harbors, Nantucket and Madaket. Rick Atherton asked if the meetings were recorded. Yes, see agendas under "Harbor Plan Update Committee" and videos under "Watch Meetings Live" (Town opening page) and go to the Playlist for the Harbor Plan Update Committee; there are three videos posted.

6. Old, New, and Other Business, and Member Comments.

Bill Grieder said that there has been no effort to remove or change the sign at 68 Washington Street (RROW Agenda Packet for March 21, 2023, photo following page 13)) that says that the land is private, which is contrary to Chapter 91. With respect to the concession on the Francis Street Beach, Nat Lowell has talked with owner about staying within the leased area of the beach. The owner said that he will advise his staff to stay within their bounds.

7. Adjourn.

Allen Reinhard moved adjournment, Ed Gillum seconded it, and the vote in favor was unanimous, hence adjournment was at 5:27 pm.

The Next meeting will be at 4:00 pm on Tuesday, May 16, 2023. It will be hybrid, by Zoom video call and, if space is available, live.

Lee W. Saperstein, Secretary _____ Date _____

Roads & ROW Ongoing Projects List:

Public Way Monument Project: (*Lee & Allen & Snookie*)

Install remaining monuments at Sconset Footpath, Hulbert Ave., and other locations

- Need scheduling with DPW
Update file of existing monuments
 - In progress
- Move monuments at Westchester St. Ext. & Crooked Lane
 - Allen Reinhard coordinating with Land Bank

Sidewalk Projects: (*Lee & Allen*)

Prospect St. (sidewalk to Upper Vestal St.) to Madaket bike path

- Referred to Transportation Planner

Cliff Rd. Coffin Park to bike path at Sherburne Tpk.

- Request sent to Selectboard to add to future sidewalk list

Pleasant St. Gardner Perry Lane to Williams St.

- Referred to Transportation Planner

Lovers Lane Bike path/ road reconstruction

- Bids received over budget – need additional funding

Follow implementation of downtown sidewalk improvements

- Updates provided by DPW representative to RROW

Bike/Pedestrian connection from Surfside to Hummock Pond to Madaket paths

- Land takings completed – needs Town Meeting funding

Chapter 91 Monitor Project: (*Lee, Rick, Phil*)

GIS department head Nathan Porter working to make available online Harbor Walk Project, list of permits and approvals

- Plan presented to Selectboard – ReMain Nantucket providing assistance

Identify Chapter 91 licenses along route for the Harbor Walk

- In progress

Locate other locations on waterfronts requiring licenses

- Request sent to ConCom to copy RROW on any received applications or notices

Nantucket Greenway and Trail System Project: (*Allen, Lee*)

Nantucket Central Railroad trail map of existing portions of route

- Locations identified at Easy Street, Washington Street extension, Naushop development and Bayberry Commons to Surfside

Island Trail Map with all walking trails

- In progress

Sconset Bluff Walk Review: (*Allen, Ed, Nat*)

- Subcommittee reviewing: possible recommendations
 - Update sign verbiage – Increase sign locations – Adjust hours open to the public -
Identify maintenance issues - Identify encroachments – Activity monitoring -
Survey path boundaries

SIASCONSET'S HISTORIC BLUFF WALK

Open 7:30am until sunset

Siasconset derives its name from an Indian word meaning “near the great whale bone.” The village was first settled in the late 17th century as a whaling outpost to spot the giant sea mammals offshore.

In 1873, William Flagg, a summer resident of Nantucket, obtained title to a large section of land north of the village known as Plainfield. When Flagg sold some of his lots in 1892, it was recorded that the easterly line of these lots was separated from the edge of the bluff by “a footpath along the top of the bank.” In August of that year, Flagg petitioned the Proprietors to accept a tract of land “for residents and visitors to Nantucket to be used as a footpath or foot promenade and for no other purpose or purposes whatsoever.”

The footpath no longer ends at Sankaty Head Lighthouse due to erosion of the bluff but still provides outstanding views of the Atlantic. As historian Edouard A. Stackpole commented, the path is “situated as it is at the top of the bluff, always commanding intriguing glimpses of the sea and the heathland on either side, curves and dips as it follows the conformation of the bluff, and provides an entirely unique opportunity for a stroll.”

The steep angle of the bluffs and its sandy glacial material are prone to erosion from water and storms. Sea-level rise and the deadly force of storm waves have had dramatic effects on the bluff and adjoining properties. Following some simple rules will go a long way to protecting this fragile path and limit the impact of humans.

Be considerate of neighbors' privacy and keep voices low.

Turn off your cellphone.

No running or wheeled vehicles allowed.

Dogs must be on a leash.

Stay on the path and leave only at designated exit markers.

Native vegetation includes poison ivy and watch for ticks.



PUBLIC ENTRY/EXIT POINTS

1 - On path between Front Street and northern end of Bank Street. Path off of Front Street is to left of 21 Front Street.

2 - At the end of Nosegay Lane

3 - Between 13 Baxter and 15 Baxter (where Rosaly Lane intersects with Baxter)

4 - Between 27 Baxter and 29 Baxter (where Emily Street intersects with Baxter)

5 - Between 63 Baxter and 61 Baxter

6 - Between 65 Baxter and 67 Baxter

E-MAIL FROM CECIL BARRON JENSEN, REMAIN NANTUCKET, MARCH 23, 2023, TO LEE SAPERSTEIN AND HIS ORIGINAL NOTE OF ENQUIRY.

Lee,

You're right. ReMain had spent some time researching Chapter 91 issues and the Harbor Walk a number of years ago.

According to Melissa it was always about the eastern side of the harbor, past the front of the National Grid property and down Washington Street. The interest was related to our ownership of the Greenhound Building and our support of bike paths heading into town.

While we still care about coastal resilience issues and bike and pedestrian safety on Washington Street, it has been a long time since we talked about the Harbor Walk itself.

You might want to check in with the Land Bank -- they have been doing some excellent work to plan for safe and resilient access to their properties on Washington Street.

Cheers,

Cecil

On Wed, Mar 22, 2023 at 2:21 PM Saperstein, Lee W. <saperste@mst.edu> wrote:

Dear Cecil: I'm Secretary of the Town's Committee on Roads and Right of Way. At our last meeting, we talked about continued development of the Town's Harbor Walk and we wondered if ReMain has pursued its original interest in a plan for such a walk. Our committee has a continuing interest in Chapter 91 MGL (Waterways) and its protection of access to intertidal lands, which is part of the reason for our recent discussion. The other reason comes from the large number of construction projects on Easton Street and our concern that Chapter 91 rights will be protected once the building is finished. My recollection, though, is that ReMain's planning extended eastward from the Boat Basin.

Is there anything more/new? Lee