SELECT BOARD

Minutes of Meeting of July 21, 2021. The meeting took place in the Community Room at 4 Fairgrounds Road; and remote participation was available using Zoom Webinar. Members of the Board present were Jason Bridges, Matt Fee, Kristie Ferrantella, Dawn Hill Holdgate and Melissa Murphy.

I. CALL TO ORDER

Chair Bridges called the meeting to order at 5:33 PM, following a meeting of the County Commissioners. He referenced a statement read prior to the County meeting as to how this "hybrid" in-person and remote participation combined meeting will be conducted.

II. SELECT BOARD ACCEPTANCE OF AGENDA

The agenda was accepted as presented.

III. ANNOUNCEMENTS

1. The Select Board Meeting is Being Audio/Video Recorded.

2. Recognition of Retiring Certified Nursing Assistant/Our Island Home Sherry Souza with 30 Years of Service to the Town of Nantucket. Ms. Souza could not be present. Assistant Our Island Home Administrator Michelle Monroe accepted a plaque on her behalf, memorializing Ms. Souza's service to the Town, and the Board and Town Manager expressed thanks to Ms. Souza for her years of service. Ms. Monroe also thanked Ms. Souza for her service and acknowledged her deep compassion for Our Island Home residents.

3. Next Select Board Meeting on August 4, 2021 at 5:30 PM (Summer Schedule).

4. COVID Vaccine Clinics: 1st Way School Administration Site, Thursdays from 4:30 to 6:30 PM and Sundays from 12:00 to 2:00 PM. See https://www.nantucket-ma.gov/2028/COVID-Vaccine for Full Schedule.

5. Select Board Announcements/Comments. Chair Bridges explained that this new agenda item is for particular Board member announcements or comments better made at the beginning of the meeting rather than the end.

He noted with respect to an issue that arose during the Board's recent review of the FY 2020 audit regarding language in the FY 2020 Comprehensive Annual Financial Report (CAFR) explained what the CAFR is, noting that rather than a policy document, it is a report from the Director of Finance to the Town Manager and provided to the Select Board and community. He stated that in discussing the concerns that arose at the meeting, the Finance Committee has been asked by the Town Manager to review the language and work with Town Administration as to potential language changes in the next CAFR.

Chair Bridges noted that the FY 23 capital project review process has already started and said that is much earlier than in prior years.

Mr. Fee asked for a letter to be sent to the state Department of Environmental Protection requesting additional testing of private wells for PFAS. Chair Bridges said that in discussion earlier today with the Town Manager, that letter will be sent.

Mr. Fee commented on beach fires near Steps Beach and noted he has received complaints from a property owner.

6. Committee Appointments for Various Board/Committee/Commission Vacancies Scheduled for Wednesday, August 18, 2021; See Agenda Packet for Complete List of Committees and Applicants. Chair Bridges read the names of applicants for vacancies as follows:

Council for Human Services: Athalyn Sweeney (incumbent); Kelly Steffen; Ruth Tonico; Sallyanne Austin: Janet Forest; Colin Ferguson; Veronica Bolcik; Jordynn Lydon.

Cultural Council: Ava Rollins; Philip Santarelli; Sarah C. Ellis; Kathy Melrod.

Nantucket Historical Commission Alternate: Susan Locke; Linda Williams; Ethan Griffin; Barbara Ann White; Gerri Ferguson.

Planning Board Alternate: David Callahan (incumbent); Charles Kilvert IV; Abigail Camp.

Tree Advisory Committee: Ben Champoux (incumbent); Steven Williams.

Zoning Board of Appeals: Elisa Allen; Abby De Molina; David Pumphrey.

Zoning Board of Appeals Alternate: Geoff Thayer (incumbent); David Pumphrey.

Sewer Director David Gray announced that the Sewer Department is finding extensive problems lately with wipes, paper towels and grease clogging sewer lines and urged the public to refrain from allowing these items to enter the sewer system. He noted it can be dangerous and cause serious problems.

Human Services Director Jerico Mele (remote) spoke on recent spikes in positive COVID cases in areas on the Cape and the Vineyard; and that in response a Face Covering Advisory has been issued for Nantucket by the Health Department. He noted that 5 positive cases have surfaced on the Island since July 16th and that while the wastewater testing continues to show a low incidence, with positive cases increasing on the Cape, the public is urged to be cautious and get vaccinated if not already. He reviewed the increased spread of the COVID "Delta" variant nation-wide. He said that testing capacity can increase locally if need be. Mr. Fee asked if masks are required on public transportation. Mr. Mele responded affirmatively. Mr. Fee suggested that the Steamship is doing a good job with this, but the Hy-line is not, and the Health Department should remind the Hy-line of the requirement.

IV. FOLLOW-UP ON SELECT BOARD/PUBLIC COMMENT

1. July 14, 2021 Select Board Meeting - Public Comment: Road Work; Line Painting; Legal Opinion Regarding Select Board Memo to Conservation Commission. Chair Bridges reviewed the structure of this agenda item explaining that it is for administrative follow-up from public comments at prior meetings, if necessary. Ms. Gibson reviewed Public Comments from the Board's July 14th meeting:

Road projects – she indicated that a list of road projects will be brought forward at a later time.

Line painting - she explained that line painting for 2021 was essentially postponed until 2022 because the off-island contractor could not get a boat reservation until September and that applying new lines just before winter was ill-advised due to the likelihood of sanding and plowing causing wear and tear; and, that it will be rescheduled for spring of 2022.

Legal opinion with respect to a memo recently sent by the Select Board to the Conservation Commission – Ms. Gibson said that if there were a legal issue, it would have been raised by Town Counsel who was present during the executive session discussion about the memo in question; and, that there is no legal issue with respect to the Select Board sending a request to another board.

V. PUBLIC COMMENT

George Smith commented about needing an extension for a sewer connection permit requirement in the Shimmo area.

Thomas Barada (remote) commented that he understands about the line painting and said the crosswalks in certain areas need to be painted.

Mr. Barada also commented on trimming of vines along Wauwinet Road.

Sarah Ellis (remote) concurred with Mr. Barada about crosswalk painting.

VI. NEW BUSINESS

There was no new business.

VII. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

Ms. Murphy moved approval of items 1. and 2.; seconded by Ms. Ferrantella. So voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Ferrantella – Yes; Ms. Holdgate – Yes; Ms. Murphy – Yes.

1. Approval of Minutes of July 12, 2021 at 4:00 PM; July 13, 2021 at 9:30 AM; July 14, 2021 at 5:00 PM.

2. Approval of Treasury Warrants for July 21, 2021.

3. Approval of Pending Contracts for July 21, 2021 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference. Ms. Gibson noted that the contract with NCTV for the PEG channel is premature and will be brought back at a later time. Ms. Murphy moved approval of the remaining contracts; seconded by Ms. Holdgate. So voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Ferrantella – Yes; Ms. Holdgate – Yes; Ms. Murphy – Yes.

VIII. CONSENT ITEMS

1. Resignation Acceptance: Cannabis Advisory Committee. MS. Holdgate moved to accept the resignation of David Martin from the Cannabis Advisory Committee with regret; and, thanks for his service; Ms. Murphy seconded. So voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Ferrantella – Yes; Ms. Holdgate – Yes; Ms. Murphy – Yes.

IX. CITIZEN/DEPARTMENTAL REQUESTS

1. Housing Director: Request for Approval of Updated Housing Production Plan. Housing Director Tucker Holland introduced the agenda item and recognized Judi Barrett, the consultant engaged to assist with development of the plan, noting that she is a recognized expert on housing issues. He explained an extensive public outreach program used to gain public input for the document. Ms. Barrett (remote) reviewed a presentation, included in the Board's packet, which provided an overview as to how the Plan was developed, who was involved and the components of the Plan, including goals and next steps. She explained what a Housing Production Plan (HPP), is. She recognized Director of Planning Andrew Vorce's significant assistance with this Plan. She reviewed pertinent sections of Massachusetts General Law Chapter 40B as related to the HPP. She spoke about housing challenges and associated strategies to address them. She said that Nantucket has adopted more unique zoning requirements than most other towns to address its particular challenges. Mr. Holland concluded by stating that there are no significant changes from the prior plan and thanked Ms. Barrett for her hard work. Mr. Fee commented on this plan being a steady improvement. Ms. Holdgate spoke in support of the updated plan.

Mr. Fee moved approval of the updated HPP; seconded by Ms. Ferrantella. So voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Ferrantella – Yes; Ms. Holdgate – Yes; Ms. Murphy – Yes.

2. Request for Approval and Execution of Quitclaim Deed to Grant the Following to Richmond Great Point Development, LLC Pursuant to 2019 Memorandum of Agreement:
- A Portion of Unnamed Way off Miller Lane Shown as Lot 1049 on Land Court Plan No. 16514-144 and Filed with Nantucket Registry District of the Land Court, Pursuant to Vote on Article 97 of 2014 Annual Town Meeting. Real Estate Specialist Ken Beaugrand explained the transaction. Mr. Fee moved approval; seconded by Ms. Ferrantella. So voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Ferrantella – Yes; Ms. Holdgate – Yes; Ms. Murphy – Yes.

X. PUBLIC HEARINGS I

1. Public Hearing to Consider the Taking of Portions of North Road, Siasconset as Shown as Lots A, B and C on Plan of Land Entitled "Roadway Acquisition Plan in Nantucket, Mass. of a Portion of Unconstructed 'North Sias Road'," Dated March 25, 2021, Prepared by Bracken Engineering, Inc. for Public Ways and/or General Municipal Purposes and for the Purpose of Conveyance of the Fee Title or Lesser Interests, Together with any Public or Private Rights of Passage, as Authorized by MGL Chapter 79 and Vote on Article 107 of 2020 Annual Town Meeting (Continued from May 26, 2021; June 23, 2021; Request to Continue to August 18, 2021). Chair Bridges reopened the public hearing. Ms. Murphy moved to continue the hearing to August 18, 2021 as requested; seconded by Ms. Holdgate. So voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Ferrantella – Yes; Ms. Holdgate – Yes; Ms. Murphy – Yes.

2. Public Hearing to Consider Application for New Mobile Food Unit for Yezzi's Loring Ave, LLC dba Yezzi's on Nantucket, Located at 57 Old South Road, Theodore Fossa, Manager. Chair Bridges opened the hearing. Mr. Fee recused for this item and removed himself to the audience. Licensing Administrator Amy Baxter reviewed the application. There being no further public comment, Chair Bridges closed the hearing. Ms. Holdgate moved approval of the application; seconded by Ms. Ferrantella. So voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Ferrantella – Yes; Ms. Holdgate – Yes; Ms. Murphy – Yes. Mr. Fee recused.

XI. SELECT BOARD'S REPORTS/COMMENT

1. Discussion Regarding the Continuation of Outdoor Dining. Chair Bridges said he intends to set aside 45 minutes to one hour for this discussion. He said two areas for Board consideration tonight are: whether or not to extend outdoor dining from August 15, 2021, as it is currently allowed; and the future of outdoor dining with a "whole picture" perspective, including a variety of considerations. He said that during the fall, the Board will need to make a final determination on this. Ms. Baxter spoke on the details of the current allowance for outdoor dining on the Island, as well as the status of other state orders relating to outdoor dining. Ms. Baxter also addressed outdoor dining in public vs private spaces. Ms. Holdgate said she is supportive of continuing outdoor dining past August 15th. Discussion followed as to what an appropriate time frame might be. Ms. Murphy spoke in support of authorizing extension through the Christmas Stroll in early December. Ms. Ferrantella agreed. Discussion followed as to the details of what "extension" is, when restaurants utilizing public spaces may be closed but their public space is closure of a street. It was generally agreed that the extension specifics can be revisited by the Board at any time.

Ms. Holdgate moved to extend outdoor dining provisions through December 31, 2021; seconded by Mr. Fee. Bart Gangemi (remote) a restaurant owner, spoke on the extension and noted that some restaurants are using public spaces for outdoor dining and some, such as his, utilize their own private spaces at more expense than those using public property. Sarah Ellis (remote) said she has an issue with "serious congestion" caused by Lemon Press on Main Street; and, to blocking Cambridge Street. She said there is no reason to continue outdoor dining for many reasons and agreed with Mr. Gangemi regarding the use of public vs private spaces. She said continuing outdoor dining is "ageist" because the set-ups make it difficult for the elderly and disabled to navigate around them. Janet Forest (remote) asked if the restaurants are paying for their use of public spaces. Chair Bridges answered that they are not, currently, but that is a consideration for the Board in its discussion as to continuing outdoor dining. Mary Longacre (remote) suggested an extension through Columbus Day weekend, saying that longer than that is not fair to the public or those establishments not using public property. Ms. Ferrantella commented that in the event that COVID cases do rise, outdoor venues will become necessary. Mr. Fee commented that retail establishments support outdoor dining. Ms. Holdgate suggested an amendment to her motion that if an establishment is closed 5 days or more, the outdoor seating set-ups are to be removed. Mr. Fee said he thought that was fair and seconded the motion. Ms. Murphy expressed concern as to flexibility if COVID cases rise. Some discussion followed. Ms. Holdgate moved to amend her motion further so that if the closure involves removal of jersey barriers or other structural barriers, once they are removed, they are removed for good; if it is only tables and chairs, they can be returned; seconded by Mr. Fee. So voted as amended by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Ferrantella – Yes; Ms. Holdgate – Yes; Ms. Murphy – Yes. Ms. Baxter noted that the process to amend licenses to incorporate private spaces for outdoor dining into licensed premises, will begin immediately. She said that process will also need to occur for the public spaces, if approved by the Board. Ms. Baxter reviewed potential conditions for the use of public spaces. She displayed some examples on screen, of current set-ups. Ms. Holdgate said she is opposed to the continued use of parking spaces for outdoor dining. She spoke on equity and fees for the use of public space. Mr. Fee said he thinks some of the parking spaces are not an issue. He spoke on developing a fee system based on a percentage of an establishment's revenue. He said parking issues should be addressed through a parking commission and timed, paid parking downtown. Ms. Ferrantella said she supports street closures over the use of sidewalks. Operations Administrator Erika Mooney noted that South Water Street is a truck route and narrowing it could have issues. Chair Bridges said he tends to agree with Ms. Holdgate as to street closures. He added that perhaps at a different time of year, not summer, streets could be closed. He said that not everyone supports outdoor dining and noted emails received from members of the public who are not in support. Ms. Murphy said she supports the idea of a “task force” to work with Ms. Baxter to come up with parameters and proposals for future outdoor dining. Ms. Baxter noted that the use of public spaces is not limited to just restaurants but also take-out establishments and other retail. Mr. Fee commented on traffic and parking issue as related to street closures and said that vehicles on the Island should be limited, based on projections from 25 years ago. Some discussion followed about a “task force” and the timing of the recommendations. It was generally agreed that Ms. Baxter would determine if any members of the most recent Economic Task Force would be willing to be part of a reconstituted group. Mr. Gangemi (remote) expressed support for the idea of a Task Force. Ms. Ellis (remote) said she finds that almost all of the downtown outdoor seating to be “disingenuous” for accessibility reasons and that it is unfriendly and disrespectful to older people. She spoke against outdoor dining and said that if it does proceed she expects the Town to be “fully compensated” for the use of the public property. Ms. Ferrantella referenced an email from Rose & Crown owner Rick Ulmer received today, which she said contained some good suggestions for outdoor dining set-ups. Ms. Baxter noted that public and other stakeholders will be consulted as part of the task force process.

2. Committee Reports.
Ms. Ferrantella provided an update on this week’s Nantucket Planning & Economic Development Commission (NP&EDC) meeting and noted a grant for small business assistance that NP&EDC voted to support. She said a public hearing will be held in August on a Sconset Area Plan. She corrected a comment she made last week about a “carrying capacity” study which is actually a “build-out analysis”. Ms. Murphy spoke on a recent Board of Health meeting and a presentation made by Board member Dr. Malcolm MacNab as to the economic impacts of swimming pools. Some discussion followed as to environmental impacts as well. Ms. Murphy spoke on prior discussions as to encouraging the HDC to consider regulations allowing solar panels.

XII. TOWN MANAGER’S REPORT
1. E-Permitting Implementation Update. Ms. Gibson introduced Chief Technology Officer Karen McGonigle to review this item. Ms. McGonigle provided an update as to the implementation of an e-permitting system. She provided an overview as to how the system works and showed the Board a live demonstration. Some discussion followed. Ms. Murphy commended Ms. McGonigle on the hard work that has gone into this.

2. Monthly Town Management Activity Report. Ms. Gibson reviewed the report as contained in the Board’s packet for this meeting and reviewed specific recent activities on which Town Administration has been most focused. Ms. Gibson said that DPW Director Rob McNeil has submitted his resignation.

XIII. PUBLIC HEARINGS II
1. Public Hearing to Consider the Appeal of Lily Pond Neighbors of Historic District Commission Approval of Certificate of Appropriateness No. HDC2021-04-3401 for a Building Relocation for Property Located at 36B Lily Street, Assessor’s Map 42.4.3, Parcel 94. Chair Bridges opened the public hearing. Appellant Mark Forsyth spoke on the appeal and explained why he filed it. He asserted a violation of Robert’s Rules of Order and a possible conflict of interest. He spoke on the HDC’s decision making process with the timing of meetings, and discussion at the HDC meeting when this decision was made. He said the neighbors had requests that were not discussed or considered by the HDC; he said the process is “optically unethical”. He asked that the matter be remanded to the HDC. Cathy Flynn, representing the HDC said that any conflict of interest should be addressed by Town Counsel. She reviewed how and when the meetings were posted, within the confines of the Open Meeting Law and reviewed her communications with inquiries as to the HDC’s meeting(s) regarding the subject application. Ms. Holdgate asked, if unethical behavior or a conflict of interest is grounds for upholding an appeal. Brian Riley (remote) of Town Counsel’s office explained that

that type of action would not be grounds for upholding the appeal but rather that would be a matter for the State Ethics Commission. He proceeded to review Mr. Forsyth's allegations and said that none of them are actually grounds for upholding an appeal and that the HDC did not violate the Open Meeting Law. Ms. Sarah Mclean, an abutter to the subject property, spoke in favor of the appeal. Some discussion followed as to the jurisdiction of the HDC vs the Conservation Commission regarding wetland issues. Chair Bridges asked for any public comment. No public comment. Mr. Fee suggested remanding to the HDC in light of confusion caused by the impact of COVID with communications. Discussion followed as to the Board's history with remands. Ms. Holdgate asked if anyone was present representing the applicant. No one was. Discussion followed as to the detail of communications between abutters and the HDC staff and how the system of notifying abutters of HDC applications, works. Ms. Suzanne Forsyth spoke in favor of remanding the application to the HDC so that the abutters can be heard. Preservation Planner Holly Backus said that she read the Forsyth's letter to the HDC during the hearing on the application, so their concerns were made known. Ms. Mclean spoke again as to the concerns of the abutters, mainly that the building is not appropriate for the site. Vallorie Oliver spoke on the HDC's review of this application and noted a recommendation from the Commission's Historic Structures Advisory Committee in favor of how the property would be developed. She said there was nothing arbitrary or capricious about the decision. Ms. Forsyth spoke again as to the HDC meeting discussion and various members who spoke at that meeting. Some discussion followed as to what is specifically being appealed. There being no further public comment, Chair Bridges closed the hearing. Ms. Holdgate spoke on the reasons for a remand and said those are not really present in this case. She said she feels the HDC conducted a thorough review and did not act arbitrarily. Ms. Murphy agreed. Mr. Fee said he would like to err on the side of caution and would support a remand. Ms. Ferrantella agreed that the HDC acted appropriately but in light of COVID impacts, would support a remand. Chair Bridges asked Mr. Riley if there is enough for the Board to remand the matter. Mr. Riley said that some kind of finding needs to be made as to a procedural issue and/or an arbitrary aspect of the decision in order to remand. Mr. Riley said that his review does not reveal specifically, either of these. Chair Bridges asked if the applicant needs to be present during an appeal hearing. Mr. Riley said not necessarily. Ms. Holdgate reiterated that there were no procedural errors in the HDC's process and a remand could be a "slippery slope". Mr. Fee asked if there is any issue with the HDC members interaction and discussion with each other during the decision. Mr. Riley said that in his viewing of the meeting, no. Ms. Holdgate moved to deny the appeal and uphold the HDC decision; seconded by Ms. Murphy. Mr. Fee said he is torn because he wants to support the HDC but is somewhat uncomfortable that the applicant is not here. Some discussion followed. So voted by roll call vote: Chair Bridges – Yes; Ms. Holdgate – Yes; Ms. Murphy – Yes; Mr. Fee – No; Ms. Ferrantella – Yes. Some discussion followed as to the difficulty of this situation.

IX. ADJOURNMENT

Ms. Ferrantella moved to adjourn at 8:43 PM; seconded by Ms. Murphy. So voted by roll call vote: Chair Bridges – Yes; Ms. Holdgate – Yes; Ms. Murphy – Yes; Mr. Fee – Yes; Ms. Ferrantella – Yes.

Approved the 4th day of August 2021.

SELECT BOARD
JULY 21, 2021 – 5:30 PM
PFS COMMUNITY ROOM, 4 FAIRGROUNDS ROAD
AND REMOTE PARTICIPATION VIA ZOOM WEBINAR
NANTUCKET, MASSACHUSETTS

List of documents used at the meeting:

- III. 6. Committee membership/applicant list for vacancies; Committee applications
- VII. 1. Draft minutes of 7/12/2021; 7/13/2021; 7/14/2021
- VII. 3. Pending contracts spreadsheet
- VIII. 1. David Martin resignation from Cannabis Advisory Committee; Cannabis Advisory Committee membership list
- IX. 1. AIS re: 2021 Housing Production Plan; Link to 2021 Housing Production Plan; Judi Barrett Housing Production Plan presentation
- IX. 2. AIS re: Deed to Richmond; Quitclaim Deed for portion of Unnamed Way off Miller Ln; Land Court Plan No. 16514-144
- X. 2. AIS re: Mobile Food Unit application for Yezzis; Yezzis MFU application; Menu; Letter from Richmond
- XI. 1. Outdoor Dining presentation; Open Streets photos; Letter of concern
- XII. 1. E-Permitting Implementation Update presentation
- XII. 2. Monthly Town Management Activity Report
- XIII. 1. HDC appeal of 36B Lily Street - appellant submission; HDC File: HDC memo, HDC files; Letters of Concern