# SELECT BOARD

Minutes of Meeting of November 16, 2022. The hybrid meeting took place in person at the Public Safety Facility Community Room at 4 Fairgrounds Road; and, via remote participation using Zoom Webinar. Members of the Board present were Jason Bridges, Matt Fee, Brooke Mohr, Dawn Holdgate and Dr. Malcolm MacNab.

I. CALL TO ORDER
Chair Bridges called the meeting to order at 5:30 PM, following the Pledge of Allegiance.

II. SELECT BOARD ACCEPTANCE OF AGENDA
The agenda was accepted as posted.

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

2. Health Director: Update on Local Government 2030 National Event. Town Manager C. Elizabeth Gibson introduced the item, noting that the Health Director was specifically nominated to attend this special conference. Health Director Roberto Santamaria reviewed his experience at this event, which was held in Omaha, Nebraska, last week. He said three main topics were presented and discussed: resilient workforce, public communication and employee retention difficulties. He added that he was the only public health official requested to attend.

3. Review of Applications for Appointments to: Zoning Board of Appeals; Harbor Plan Update Committee; Agricultural Commission; Tree Advisory Committee; Applicant Introduction and Appointments Scheduled for Wednesday, December 7, 2022, Pursuant to Select Board Committee Appointment Policy.

The names of the applicants were read aloud as follows:

Zoning Board of Appeals: John Brescher
Harbor Plan Update Committee: Phil Smith, Steven Leinbach, Karen Beattie, Emily Molden, Emily Kilvert
Agricultural Commission: No applicants
Tree Advisory Committee: Judy Deutsch

4. No Select Board Meeting on Wednesday, November 23, 2022; Town Offices closed on Thursday, November 24, 2022 in Observation of Thanksgiving.

5. Select Board Announcements/Comments. No comments.

IV. FOLLOW-UP ON COMMENTS FROM PRIOR SELECT BOARD MEETINGS
There was no follow-up from prior comments.

V. PUBLIC COMMENT
Ellen Ray spoke on her concerns with regard to pesticides, insecticides and herbicides and the impact of these substances on the Harbor. She urged the Board to take action to ban these items.

Megan Perry asked about sand source viability and sustainability in connection with the Sconset erosion control project for which a Notice of Intent application was approved at the Board's last meeting.

VI. NEW BUSINESS
There was no new business.

VII. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS
Mr. Fee moved approval of items VII 1 – 3; seconded by Ms. Holdgate; all in favor, so voted.

1. Approval of Minutes of November 9, 2022 at 5:30 PM.

2. Approval of Payroll Warrants for November 13, 2022.

3. Approval of Treasury Warrants for November 16, 2022.

4. Approval of Pending Contracts for November 16, 2022 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference.
Ms. Holdgate moved approval of the pending contracts as presented; seconded by Ms. Mohr; all in favor, so voted.

VIII. CITIZEN/DEPARTMENTAL/COMMITTEE REQUESTS
1. Historic District Commission: Request for Reinstatement of Madaket Advisory Board, Tuckernuck Advisory Board, Siasconset Advisory Board, Historic Structures Advisory Board. HDC member Diane Coombs spoke in favor of the reinstatement of the advisory boards, stating their input is valuable and there is no cost to the Town. Mr. Fee noted a letter received from a Madaket resident requesting that the Board not reinstate the Madaket Advisory Board. Ms. Coombs said the reinstatement of that board could be postponed. Ms. Mohr noted that there is a fair amount of staff time dedicated to managing these advisory boards and noted there are no minutes from any of the boards posted on-line. She said she would like to hear from the Planning Director on this matter. Planning Director Andrew Vorce said there is a cost to the Town for the staff time necessary to manage these boards, which is significant in order to be done correctly. He noted there is no authority by the HDC to establish these boards, said that the boards have privately reconstituted themselves and have been providing input to the HDC as they had done before they were disbanded last summer. Ms. Mohr asked about transparency with the advice coming to the HDC from informal groups. Preservation Planner Holly Backus explained that all of the comments are made available to the public. She said that from the staff's perspective, the way the process is progressing now is easier, more efficient and the public is encouraged to provide comments. Chair Bridges asked about differences between the prior boards' input and the way it is happening now. Ms. Backus said there is no difference. Ms. Mohr asked if applications, previously, were required to go through these boards. Ms. Backus said no and explained how the process used to work and is working now. She reiterated the efficiency of the process as it currently stands. She added that the input is greatly appreciated. Mr. Fee said the HDC is requesting these boards and he thinks the current situation is adding a burden to the HDC. Mr. Fee asked how the Sign Advisory Committee (SAC) is being utilized. William Saad, HDC administration staff member explained how the SAC is used currently and how it was being used before. He emphasized the efficiency and transparency of the process. Mr. Fee asked for additional input from the HDC. Dr. MacNab agreed with Mr. Fee as to the HDC's request. Hillary Rayport spoke in support of the HDC's request and disagreed that associated staff time is significant. Linda Williams said she herself has served on an HDC advisory board; and, on the HDC. She stated that she represents people who do not support the HDC request and who she says are afraid of retribution by the HDC if they were to speak out against the request. She spoke on self-expansion of jurisdiction of the advisory boards to cover areas not intended to be covered. She spoke

against the HDC request without more specific documented and approved rules and parameters. Rick Atherton spoke in favor of the HDC request. Mr. Saad said he spends a significant amount of time administering the SAC. Esmeralda Martinez, HDC administrative staff member spoke on the amount of time she spends on HDC issues, as well as the time she previously spent administering the advisory boards, stating that it is "a lot of work for the staff". Ms. Holdgate questioned the HDC application backlog, if the advisory boards were in effect. Some discussion followed as to the application backlog, processing time and process. Ms. Holdgate commented that with the current backlog, reinstating the advisory boards could make the situation worse. Ms. Backus suggested that the HDC enabling legislation perhaps could be amended to better streamline the process, to allow some amount of additional staff review and approval of certain types of applications. Ms. Holdgate agreed and said that routine applications could easily be approved by staff. Mr. Fee reviewed some historical discussion as to amending the HDC enabling legislation. He said he believes there are "management solutions". Abby Camp, HDC member, spoke in support of the HDC request. Ms. Mohr said she is not ready to take action tonight and would like additional information as to the specifics of what the advisory boards are supposed to do, expressing concern about an unnecessary slow-down of the process. Dr. MacNab suggested reinstatement for one year. He said the "real issue" isn't the advisory boards, it is the "appropriate review" of items going before the HDC. Ms. Holdgate suggested there could be a more thought-out process prior to reinstatement. Chair Bridges noted that the information desired by the HDC is getting to it through the current process. Ms. Holdgate moved to continue the item until more information can be gathered; seconded by Ms. Mohr. Chair Bridges asked about the type of information needed. Ms. Holdgate suggested detail as to staff time, and parameters that previously existed for the advisory boards with advisory board input. Mr. Fee asked who is going to gather the information. Some discussion followed. On the motion: Ms. Holdgate – Yes; Ms. Mohr – Yes; Mr. Fee – No; Dr. MacNab – No; Chair Bridges – Yes. So voted 3-2. Ms. Gibson suggested an independent review of the HDC processes, meeting structure, staff requirements, application types and that if the Board wants to put forward an article regarding the enabling legislation that could be developed. Ms. Holdgate spoke in favor of an independent review, which could include recommendations for enabling legislation amendments. Ms. Backus concurred. It was generally agreed that Ms. Gibson will come back to the Board with a scope for an independent review. Mr. Fee said he would want the HDC and other groups to have input.

IX. SELECT BOARD'S REPORTS/COMMENT

1. Form of Government/Municipal Charter Change Discussion (Input from Guest Speakers). Ms. Gibson explained that the Massachusetts Selectmen's Association recently held a webinar with a former and current town managers who discussed their experiences with municipal charter changes. She said that Select Board member Brooke Mohr also attended the webinar and thereafter agreed that in light of discussions occurring in the community and with different community organizations, it might be a good idea to provide a summary of the information provided at the MSA meeting, to the Board, with allowance for questions and answers. She introduced Town Managers Julie Jacobsen from Auburn, MA and Andrew Sheehan from Middleton, MA; and former Town Manager Jeff Nutting who has served in a variety of capacities in several municipalities, with service of over 40 years. Each manager spoke on their careers in municipal government in a variety of roles and in different forms of government. Ms. Mohr asked about the process of transitioning from open town meeting to a town council form of government. Mr. Nutting reviewed the legal requirements and said it is a "huge change" to go from hundreds of years of doing something to a new way and suggested the statutory Charter Commission process, for something so significant. Mr. Fee asked about the types of items that come before a council and how they are prepared. Mr. Nutting said that many things are no different than for the Select Board, except that items for town meeting go to the council in a less time-consuming way. Mr. Fee asked about the Finance Committee's role

with a town council. Mr. Nutting explained, noting that the council would determine how much to rely on a Finance Committee. He reviewed his experience in Franklin. Chair Bridges asked what was lost by moving away from open town meeting. Ms. Jacobsen explained her experience in Worcester with a city council and also in Auburn, with a transition from town meeting to town council. She spoke about the flexibility allowed by not having town meeting. Mr. Sheehan spoke on his experience going from Select Board to town council, concurring with Ms. Jacobsen as to flexibility. Mr. Nutting noted that the population of Franklin is significantly greater than that of Nantucket. Town Counsel John Giorgio agreed with Mr. Nutting about a transition from open town meeting to a town council, being a major change. He reviewed the legal options to make such a change: elected Charter Commission or special act. He reviewed the processes associated with both. He highly recommended that either way, a ballot vote be required for confirmation as to a change. Mr. Giorgio cautioned that a town council form of government can potentially lead to political difficulties. Ms. Mohr asked about the benefits of representative vs open town meeting. Ms. Jacobsen reviewed the representative town meeting in Auburn, noting that getting a quorum can be challenging, even with far fewer people who are the representatives. She said that communications are easier and potentially more effective because the town meeting members are known. Mr. Sheehan concurred with Ms. Jacobsen and spoke on ways to ensure a quorum or address it if representatives do not consistently attend. Mr. Giorgio said that a representative town meeting tends to take longer to conclude than an open town meeting. He commented on Nantucket's efficient practice of using a "consent agenda" for warrant articles. Mr. Nutting noted that municipal governments outside of New England do not have town meeting. He noted that representative town meetings can also be very contentious. Chair Bridges questioned whether people are "heard" more at open meeting vs representative. Ms. Jacobsen spoke on the benefits of being able to "pre-educate" representative town meeting members. Mr. Fee spoke on special interest groups at open town meeting. Some discussion followed as to how this does or does not change with representative town meeting or town council. Chair Bridges asked if a town council form of government would be more representative of the year-round community than an open town meeting specifically with diversity. Some discussion followed. Discussion continued as to compensation for town council members. Mr. Sheehan noted that diversity can potentially be addressed with how "wards" or "districts" are established. Ms. Jacobsen spoke on a Citizen's Leadership Academy established in Auburn, which has helped engage the community and with town meeting members. Dr. MacNab asked what happens if there is no candidate that runs for a district. General consensus from the managers was that would most likely be a write-in candidate situation. Mr. Nutting pointed out that once a town starts getting into these discussions as to changing its form of government, it gets very complicated. The Board thanked the managers for attending the Board meeting.

At 7:41 PM, Ms. Mohr left the meeting; she returned at 7:43 PM.

<u>2. Discussion Regarding Potential Short-term Rental General Bylaw Article(s) for 2023 Annual Town Meeting (or Future Town Meeting).</u> Ms. Mohr suggested additions to the regulatory framework should be addressed, such as limiting the number of short-term rental operators. Ms. Holdgate said she thought the short-term rental work group would be dealing with this and expressed concern as to limiting the number of operators and said that needs a lot more discussion. Ms. Mohr said she is not suggesting actually limiting the number of operators but rather allowing the authority to do that. Some discussion followed. Mr. Fee said he does not want another item to make a decision on without a complete review of information and unintended consequences. Discussion followed as to whether or not the work group is/should be focused on zoning and/or a general bylaw. Dr. MacNab and Ms. Holdgate agreed that they feel the work group should be focused on both. Ms. Mohr and Chair Bridges said they thought the work group's focus, per town meeting, was zoning. Discussion followed. Chair Bridges asked if the thinking could be a "re do" of Article

39, which allowed for the adoption of regulations. Ms. Mohr said more of a completion of Article 39 to add specific tools to the regulatory framework. Mr. Giorgio spoke on the statutory authority available to the Board, or not, to add the "tools" to the regulatory framework. He noted current legal cases recently adjudicated and/or in process that could impact this. He recommended getting the registration program underway, collecting the desired data, analyzing the data and using it to determine what additional regulations might be needed. He said that Ms. Mohr's suggestion to amend the existing bylaw to allow the additional authority mentioned, is viable. Mr. Giorgio further explained the difference between a zoning bylaw and a general bylaw with respect to regulating short-term rentals. Discussion continued as to what the Board might want to propose for the 2023 annual town meeting for short-term rentals. Ms. Holdgate said she is not comfortable with giving the Board "broad authority" to adopt regulations. The Board generally agreed to continue discussing this issue at a future meeting(s).

X. TOWN MANAGER'S REPORT

1. Continued Preliminary Review of Town-Sponsored Warrant Articles for 2023 Annual Town Meeting. Ms. Gibson reviewed the materials in the Board's packet, noting changes since the Board most recently discussed warrant articles on October 26th. She said that 26 citizen warrant articles were submitted by the November 14th deadline and have now been certified by the Town Clerk. She said that those articles are now under legal review with Town Counsel. Mr. Giorgio reviewed a potential re-write of a home rule petition relating to a fertilizer ban that was approved at the 2022 annual town meeting. He noted that other communities are considering home rule petitions similar to what Nantucket adopted last year, so possibly legislative positions might change in the future. Ms. Mohr spoke in favor of a "re-written" home rule petition, as described by Mr. Giorgio. Dr. MacNab and Ms. Holdgate concurred. It was agreed that the Board would submit an article with the language that was contained in the motion to the 2022 annual town meeting warrant article that was approved, but was not adopted. Discussion followed on the regulation of micro-mobility devices on multi-use paths. Chair Bridges spoke on a more robust education campaign, noting that enforcement is difficult. Discussion followed as to what would be enforced. Discussion followed as to whether or not the Board already has the authority to regulate the devices. It was agreed that Town Counsel will look into this issue further.

XI. SELECT BOARD'S REPORTS/COMMENT II

1. Committee Reports. Ms. Mohr said that the Affordable Housing Trust has created an annual "Housing Advocate Award" that it intends to issue to a community member, in honor of Dr. Howard Dickler, an affordable housing advocate who passed away recently.

XII. ADJOURNMENT

Mr. Fee moved adjournment at 8:33 PM; seconded by Ms. Holdgate; all in favor, so voted.

Approved the 30th day of November 2022.

**SELECT BOARD**
**NOVEMBER 16, 2022 – 5:30 PM**
**PSF COMMUNITY ROOM, 4 FAIRGROUNDS ROAD**
**AND REMOTE PARTICIPATION VIA ZOOM WEBINAR**
**NANTUCKET, MASSACHUSETTS**

List of documents used at the meeting:

III. 3. Committee Membership/Applicant List; Committee applications
VII. 1. Draft minutes of 11/9/2022
VII. 4. Pending Contracts spreadsheet
VIII. 1. Memo from HDC re: reinstating advisory committees; Memo from Preservation Planner re: Advisory reviews
IX. 1. Link to article on changing forms of government; ICMA Council-Manager Form of Government brochure; Council-Manager or "Strong Mayor" article; Citizen's Guide to Town Meetings
X. 1. Outline #3 for 2023 Annual Town Meeting; Planning concept articles