SELECT BOARD

Minutes of Meeting of October 13, 2021. The meeting took place via remote participation 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 5:35 PM, following a meeting of the Nantucket Regional Transit Authority Advisory Board. He read a prepared statement as to how the meeting would be conducted via remote participation and the ground rules for any discussion and called roll for those present.

II. SELECT BOARD ACCEPTANCE OF AGENDA

The agenda was accepted as posted.

III. ANNOUNCEMENTS

Town Manager C. Elizabeth Gibson reviewed the announcements as follows:

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

2. COVID Vaccine Clinic: 131 Pleasant Street Trailer, Sundays from 12:00 to 3:00 PM. See https://www.nantucket-ma.gov/2028/COVID-Vaccine for Full Schedule.

3. Select Board Announcements/Comments. No comments.

IV. FOLLOW-UP ON COMMENTS FROM PRIOR SELECT BOARD MEETING

1. Follow-up on October 6, 2021 Public Comments Regarding Sconset Bluff Erosion Control Project. Ms. Gibson noted that public comments were made by Megan Perry at the October 6, 2021 Select Board meeting and answered them as follows:

1. *"Select Board has gone into agreement behind closed doors of the executive session with SBPF to expand the geotubes which would go against what the engineering company that was hired at $157,000 has recommended."* Ms. Gibson noted that the Select Board has not met with SBPF in executive session; the Select Board does intend to file a new joint Notice of Intent with SBPF for a modified project – those modifications have not been fully developed yet, however, they most likely will track to the memo submitted by a work group comprised of member(s) of the Select Board, SBPF, ConCom, Town staff and others, dated October 15, 2020. The company referenced in the statement, Arcadis, as it was explained during the presentation of their final report on Baxter Road long-term options on October 6th, expansion of the project was not a recommended adaptive alternative because while it met effectiveness criteria, it was clear that it would not likely meet other criteria.

2. *"Will those executive session minutes now be available to the public, so the public can see what was discussed since there is already an agreement in place having those meeting minutes open to the public will not be detrimental to the agreement because the agreement has already been met."* Ms. Gibson said that the executive session minutes involving threatened, potential or active litigation will not be public until the litigation has been settled or resolved.

3. *"and then will that agreement address things such as – I'm paraphrasing what the president of SBPF has said – that they'll basically walk away from the projects and not honor previous contracts that they've signed, has something like that been addressed?"* Ms. Gibson said the Town has not reached a formal agreement with SBPF as to what they, or the Town, will or will not do. We would certainly hope an agreement can be made whereby SBPF continues to maintain the existing project.

4. *"is the Select Board still denying independent counsel for the ConCom with regards to the geotube projects and SBPF and the Select Board?"* Ms. Gibson explained that the Select Board has not denied independent counsel; rather, the ConCom has been requested to provide additional information as to the need, cost, intended defense strategy, likelihood of success, proposed scope and who it seeks to retain. Information in response has been received and is currently under review.

V. PUBLIC COMMENT

Ms. Perry thanked the Board for answers to the questions. She then asked if there is a conflict with the Select Board and the Conservation Commission being in "partnership" with the Sconset Bluff Preservation Fund and if that has been reviewed with the State Ethics Commission. Chair Bridges said that question will be answered at next week's meeting.

VI. COVID-19 UPDATE

1. Public Health Department Update. Public Health Director Roberto Santamaria provided an update on testing, positive cases, vaccine distribution. He said that the wastewater testing has shown a slight increase in incidence of the virus in the community and that most likely that is due to the large number of events occurring on weekends. He and noted the Board of Health is meeting on October 21, 2021 and will take up a discussion about continuing the current indoor face covering order at that time. He said that the island is in a "moderate transmission" category with the Department of Public Health. He spoke about an emerging anti-viral medication that may be used for COVID, once a positive diagnosis has been made. Mr. Fee asked for clarification with the wastewater testing results. Mr. Santamaria responded. Some discussion followed about masks in schools and schools in the state which are seeking to drop mask mandates with certain levels of vaccinated students. Ms. Ferrantella asked about precautions with respect to upcoming holidays. Mr. Santamaria spoke on standard guidance that will come up but does not foresee, at this point, specific orders. Mary Longacre asked about the availability of the anti-viral medication; and, the Town's policy as to posting the number of positive cases. Mr. Santamaria said that Nantucket should be receiving the medication by the end of December; and, with respect to the posting of cases, that is happening on Fridays, typically, however, with multiple testing groups sometimes the data is not readily posted but the plan is to stick to posting on Fridays. Ms. Murphy asked about indicators that may lead to a lessening of restrictions. Mr. Santamaria said that people "have to learn to live with COVID". He spoke about numbers of cases, vaccination rates and variant issues.

VII. NEW BUSINESS

No new business.

VIII. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

1. Approval of Minutes of October 6, 2021 at 5:30 PM. Mr. Fee moved approval of items VIII-1 and 2; seconded by Ms. Murphy. So voted by roll call vote: Chair Bridges – Yes; Ferrantella – Yes; Mr. Fee – Yes; Ms. Holdgate – Yes; Ms. Murphy – Yes.

2. Approval of Treasury Warrants for October 13, 2021.

IX. SELECT BOARD'S REPORTS/COMMENT

1. Town Administration: Strategic Plan Implementation Update; Board Discussion. Chair Bridges said that Ms. Gibson will take the Board through an update of the Strategic Plan goals and that if the members have questions, they may be asked as, or after, the goal progress is reviewed. Ms. Gibson noted there are individual Strategic Plan goal reports in the Board's packet and displayed a presentation for the update, saying that several Town staff will be providing the goal reports. Ms. Gibson reviewed the Strategic Plan Focus Areas and "Principles of Sustainability" which were adopted by the Board in 2020 and then proceeded to note Focus Areas and associated goal updates as follows:

Focus Area: Housing. Ms. Gibson introduced Housing Director Tucker Holland for this Focus Area and goals update.

Goal: Achieve Safe Harbor status in each of the next three years per the goals set for Nantucket by the State through Chapter 40B and maintain local control over affordable housing initiatives. Mr. Holland reviewed an update of the goal and an associated map of areas where Subsidized Housing Inventory (SHI) units have been approved, putting the Town currently into "Safe Harbor" from Chapter 40B developments. He spoke about the status of a community housing project at Town-owned property at 6 Fairgrounds Road and the possibility of financial assistance from the Town/Affordable Housing Trust to facilitate progress.

Goal: Determine in greater detail the need for housing at all affordability levels (30% Area Median Income (AMI) to 200% AMI) for the community. Mr. Holland said this is an active goal and is still under review/discussion with the Affordable Housing Trust (AHT) and other housing groups; and the continued need for greater understanding and data as to the need at every level

Goal: Finalize a plan to achieve housing needs specifically for Town employees - year-round and seasonal. Mr. Holland said this goal continues to be worked on by Town staff. Ms. Gibson added that the staff work group has recently discussed putting forward a proposal to buy a housing unit(s) at the 2022 annual town meeting; is putting out a Request for Proposals this fall to seek housing units to rent; and will be working with the AHT as to site design for employee housing at Town-owned property on Ticcoma Way, for possible construction funds at the annual town meeting. She noted that the Town, as the largest employer on the Island, is "way behind" with employee housing, while acknowledging that housing all employees is not feasible. She said that recruitment and retention of employees is very challenging without housing.

Goal: Provide incentives that encourage homeowners who rent their secondary dwellings seasonally to instead rent them on a year-round basis. Mr. Holland said that this goal is challenging and requires further thinking and also ties into the following goal.

Goal: Develop a strategy to increase home ownership opportunities for middle-income workers. Mr. Holland spoke about efforts to explore the possibility of creating a community land trust, similar to an organization on Martha's Vineyard which has made significant achievements to provide housing for middle-income people.

Mr. Fee spoke in general on the housing goals. He expressed support for Town-owned, town employee housing. He added that many of the Island's issues all lead back to housing. He said the Town needs to "think like a developer" with respect to housing. He also spoke on getting a handle on the specific needs of employee groups. He said that incentives do not always need to be monetary but can be in the form of development potential. Kadeem McCarthy spoke on the need for affordable housing for middle-income workers, noting that he is a town employee and wants to help come up with ideas. Ms. Ferrantella commented on the "huge" progress that has been made over the last 5 years with housing. She asked about partnerships with the Town and other organizations with respect to data gathering. Chair Bridges asked for more detail about a community land trust and what if anything the Select Board could do to support or further that concept. Mr. Holland explained how a land trust works and how it could be beneficial on Nantucket. Some discussion followed as to how a land trust is typically funded. Chair Bridges asked which of the housing goals is the most challenging. Mr. Holland said if the will is there, none of the goals should be overly challenging. Gary Beller expressed support for the goals as reviewed by Mr. Holland. He said he is disappointed that the 6 Fairgrounds project was delayed due to lawsuits and that in the private sector, the project would have been shovel-ready as soon as the lawsuit(s) were resolved. Mr. Holland explained that the project has a complex financing structure involving tax credits and simply isn't as straightforward as a private sector project might be.

Focus Area: Transportation. Ms. Gibson introduced Police Chief William Pittman and Director of Planning Andrew Vorce for this Focus Area and goal update.

Goal: Launch a downtown parking management system based on demand management principles that achieves (or is measured by) 85% occupancy of public parking spaces. Ms. Gibson noted that while a fully integrated system has not been launched due to lack of staffing resources and also a determination by the Select Board as to whether or not to proceed with a paid parking program, a major component of the system, the deployment of handheld license plate readers (LPR) for parking enforcement, was launched in 2020 and continued through 2021. She said that the Board did discuss paid parking in the fall of 2020 and determined not to proceed at that time. She noted the data collected from the LPRs is awaiting analysis by the staff member who would typically be responsible for such an activity – which is the currently unfilled position of Transportation Planner. Chief Pittman spoke on the specifics as to the use of the license plate readers. He also spoke on the staffing needed for a more complete implementation of a full program. Mr. Vorce agreed and said the same focus on housing needs to be brought to parking, in order for this goal to be fully implemented. Chief Pittman said more LPRs are on order but are delayed due COVID supply issues. Mr. Fee expressed support for the LPRs and advocated for a parking commission separate from the Select Board. He said possibly a consultant could review the data collected. He said a focus on hiring is needed in this area. Ms. Ferrantella agreed that paid parking should move forward and suggested an agenda item on it for the Board to make that determination. Mr. Fee said it will not be popular at first but once implemented people will adapt. Some discussion followed as to how to proceed with paid parking. Ms. Murphy suggested making this an agenda item at a future meeting. There was general consensus to discuss further at a future meeting.

Goal: Complete at least one key sidewalk route connection from Mid-Island (Six Fairgrounds Housing Project) to the ferries with improved standards for accessibility. Ms. Gibson said that while this goal has not been fully implemented there has been progress with sidewalk improvements on Washington Street; funding secured for the reconstruction of Newtown Road; and design is underway for sidewalk improvements along Pleasant Street between Williams Lane and Five Corners. She noted that, again, staffing resources are currently stretched with no Transportation Planner and a vacant DPW Director position. Mr. Vorce concurred.

Goal: Shift the mode of choice of commuters from driving alone to using other modes by 6%. Ms. Gibson noted this goal most certainly requires the expertise of a Transportation Planner. Mr. Vorce agreed and noted the need for data collection and interpretation.

Chair Bridges commented that this goal was adopted as a way to "measure success" and agrees professional specialized expertise is needed. Ms. Ferrantella noted that information from the Census can also be utilized. Mr. Fee said a Transportation Planner isn't needed for certain types of data collection.

Focus Area: Environmental Leadership. Ms. Gibson introduced Recycling Coordinator Graeme Durovich, solid waste consultant George Aronson, Natural Resources Director Jeff Carlson and Public Health Director Roberto Santamaria to review these goals.

Goal: Provide data-driven recommendations on Island-wide solid waste management guided by principles of sustainability. Ms. Gibson stated that staff is recommending a Select Board workshop for this goal as there are many aspects to it and a lot of detail that cannot reasonably be covered during a regular Board meeting. Ms. Gibson added that the Take It or Leave It (TIOLI) facility is in the process of being re-opened and asked the public for patience while this is occurring. Ms. Durovich and Mr. Aronson reviewed the status of this goal as outlined in the Board's packet. Ms. Durovich noted the current staff goals for the TIOLI and the current opening plans, including changes to the operation. She said certain items not suitable for the TIOLI may be refused, as well as behavioral issues of patrons and spoke on future plans for improvement and expansion of the facility. Mr. Fee asked what happens with pallets. Ms. Durovich explained that pallets are clean wood and are essentially recycled. Mr. Fee advocated for completely mining the landfill because of sea level rise.

Goal: Finalize an island-wide, long-term water quality management plan that addresses ponds, harbors, stormwater, and wastewater with specific ways/methods to measure improvement. Mr. Carlson provided an update on this goal. He said that the plan itself is nearly ready for Board review and input, as well as perhaps a discussion regarding a Children's Beach stormwater/watershed report. Mr. Santamaria spoke on PFAS issues as emerging around the island, and state and efforts to address these and obtain more data and information as to possible solutions. He also spoke on current efforts to develop stormwater regulations. Mr. Fee spoke on salt water pools being environmentally incorrect. He said that fertilizer regulations are banned on the Vineyard due to a designation as a "District of Critical Concern" and that should be explored for Nantucket.

Focus Area: Efficient Town Operations.

Goal: Develop a Facilities Master Plan. Ms. Gibson reviewed the status of this goal, noting that three workshops have been held in the last 10 months, including the most recent one in August of 2021. She noted the actions currently underway, including seeking funding at the 2022 Annual Town Meeting for some specific Facilities items. She noted that, again, staff resources are needed to progress this goal more quickly.

Goal: Invest in technology. Ms. Gibson introduced Chief Technology Officer Karen McGonigle to review the goal, adding that Ms. McGonigle and her team have spent a lot of time over the past 12 months or so on cybersecurity issues as well as working on this goal. Ms. McGonigle explained the status of this goal and reviewed various initiatives being explored, she said it would be helpful to get clarification from the Board as to exactly how far it wants to go with "public Wi-Fi", perhaps through a separate agenda item at a later time. Some discussion followed as to whether a municipal light authority should be pursued as an entity for public Wi-Fi and/or broadband. Mr. Fee said a municipal light authority might also be an entity in connection with wind energy use that could result in savings for. Mr. Fee spoke in favor of some areas, such as beaches, remaining “unconnected” for quality of life purposes. Ms. McGonigle concluded with an emphasis on the need to keep up with cybersecurity measures. Gary Beller suggested that the Board think about adding an effort to allow the public to continue meeting by Zoom after remote participation allowances have ended. Operations Administrator Erika Mooney commented that most likely that participation would not be available for each and every committee because of the resource requirements.

Mr. Fee said coastal resiliency should be added to the Strategic Plan. And, that a focus on hiring should be added as well. D. Anne Atherton thanked the Board and staff for their efforts to develop the Strategic Plan, noting her personal involvement in it early on, many years ago. She commented on the Environmental Leadership Goal and said that there is a “disconnect” between this goal and a recent Board “agreement” with private property owners for “hard armoring” at Baxter Road and Sconset Bluff. She added that the Board’s lack of support for the Conservation Commission is disturbing. She requested the Board have a workshop meeting or discussion about “environmental leadership” as it relates to hard armoring.

Focus Area: Quality of Life.

Goal: Develop a comprehensive plan to address and ensure equity throughout Town policies and procedures. Ms. Gibson introduced DEI Director Kimal McCarthy to review the goal. Mr. McCarthy reviewed recent activities as contained in the Board’s packet, as well as a meeting held today with consultants engaged to help the Town come up with a DEI Strategic Plan.

Goal: Evaluation partnership opportunities that promote healthy, active living and provide facilities, programs and support for vulnerable populations. Ms. Gibson reviewed activities underway with this goal.

Ms. Gibson added that the only other area for potential Board discussion at a future meeting, given the hour and the remaining agenda items, is whether to establish a special commission to examine changing the Town’s form of government, as recently discussed in connection with the Town Government Study Committee report. The Board agreed to discuss that at a future meeting.

Ms. Murphy thanked the staff for their efforts and work on the Strategic Plan and the update.

2. Committee Reports. No reports.

X. PUBLIC HEARINGS

1. Public Hearing to Consider the Appeal of Rich Gillis, 38 Prospect St LLC of Historic District Commission Disapproval of Certificate of Appropriateness No. HDC2021-05-3831 for a Spa for Property Located at 38 Prospect St, Map 55.4.4, Parcel 56 (Portion). Chair Bridges reviewed the standard protocol for conducting the appeal of an HDC decision. Chair Bridges opened the hearing. Linda Williams representing the appellant, Rich Gillis, spoke to the appeal of the HDC’s denial of the Gillis application for a “spa”. She reviewed the local bylaw about pools and spas and where they are/are not allowed, and said it is clear that “spas” are allowed in the Old Historic District in which this property is located. She added that this spa will be “invisible” from other properties. She spoke on the HDC’s decision being arbitrary and capricious. Attorney Steven Cohen, also representing the applicant, said he would like to reserve his right to speak until the end of the hearing. Kadeem McCarthy, HDC Compliance Officer, spoke on the specifics of the

HDC's decision, and cited language from the HDC enabling legislation supporting the HDC's decision. HDC Chair Ray Pohl also spoke in support of the HDC decision and reviewed the definition of a "pool". He said that these pools/spas/water features involve so many other factors and neighbor concerns that the HDC feels a "higher power", such as the Select Board, should rule on this. Hillary Rayport, speaking as a member of the Nantucket Historical Commission, said that this neighborhood has a unique history and that should be taken into consideration. She said the "issue" is the visual design of this property and specifically what is visible. She said zoning is misaligned in this neighborhood. Attorney Cohen objected to Ms. Rayport's comments. Chair Bridges intervened and asked Ms. Rayport to continue. Ms. Rayport continued speaking about zoning and visibility of the subject spa and expressed support for the HDC's decision. Anne Davis, stating experience with historic preservation, spoke on comments she made at the HDC meetings when this application was heard and spoke in support of the HDC's decision saying that the application is "totally incompatible" with this neighborhood. Chair Bridges asked Attorney Brian Riley from Town Counsel's office to clarify what the Select Board is supposed to be ruling on. Attorney Riley explained the HDC legislation and that the Board is to rule on whether the HDC's decision was arbitrary or not; with associated findings. Anne Dewez, speaking as a neighbor and spoke in support of the HDC decision, saying that the spa will be very detrimental to the neighborhood and is not in keeping with its character. Wayne Dennison, an attorney representing Mill Street residents, stated that the Select Board's role is very narrow in determining whether or not the HDC acted arbitrarily. He reviewed the HDC's decision which contained justification as to visibility concerns which is appropriate and not arbitrary. Ms. Williams said incorrect information has been put forward. Attorney Cohen spoke against the HDC decision, citing numerous pools and spas which have been approved in various districts, including the Old Historic District, which is why this decision is arbitrary. Mr. Dennison said that information not brought before the HDC during the hearing, such as the pools cited by Attorney Cohen, may not be considered. Attorney Cohen responded and said Attorney Dennison brought forward information not considered as well. Chair Bridges asked if the Board is ready to close the hearing. Mr. Fee said he is ready to make a decision. Chair Bridges closed the hearing. Mr. Fee said it is a high bar to overturn the HDC and he does not feel that bar has been reached and that the HDC decision should be upheld. Mr. Fee moved to uphold the decision of the HDC as not being arbitrary or capricious and to deny the appeal; seconded by Ms. Ferrantella. Ms. Holdgate said she is struggling with this because the way Mr. Pohl represented the decision went beyond visibility issues and said as a result it feels somewhat arbitrary. Ms. Murphy agreed with Ms. Holdgate, noting that it was stated this issue was being brought to the Board because the HDC did not know how to handle it. She questioned whether a remand would be appropriate. She added that if the spa is not visible, as it has been represented it will not be, she is not sure why this matter is before the Board. Ms. Ferrantella asked about a next step if the Board upholds the HDC. Attorney Riley said the appellant has the potential to take the matter to Superior Court and that outcome is uncertain. Mr. Fee said the HDC indicated the spa is visible, a remand will not help and the HDC should be supported. He said the applicant can make changes and reapply.

So voted by roll call vote: Chair Bridges – Yes; Ms. Ferrantella – Yes; Mr. Fee – Yes; Ms. Holdgate – No; Ms. Murphy – Yes.

<u>XI. CITIZEN/DEPARTMENTAL REQUESTS</u>
<u>1. Toscana Corp.: Request for Continuation of Waiver of Town Noise Bylaw to Offload Barges at Steamship Authority Wharf between 4:30 AM and 7:30 AM.</u> Ms. Mooney reviewed the Board's most recent action with the Toscana request from the September 15, 2021 meeting and the current request for additional waivers through November 6, 2021. She noted an email from the Sibley-Liddle family in opposition to this request as well as an update she received from Steamship Authority regarding the

timeline for dredging. Ms. Ferrantella said she is not in favor of weekend waivers. Discussion followed as to the status of dredging at the Steamship dock and/or other measures which could be considered, including a "reclaim" of materials which have come off of barges, causing the issue. Attorney Ken Gullicksen representing the Sibley-Liddles stated that this is not an emergency situation, it is a situation caused by Toscana's business. He spoke as to his client's property and disturbance of noise at very early hours. He said that despite assurances to the contrary, weekend noise activity has occurred, and goes on for hours. He reviewed tide times and said the times of the noise do not corollate with early morning hours. He added that the special permit for the Toscana industrial property allows certain hours which the noise waivers are outside of, which means they also need zoning approval for this. Chair Bridges said he is not in favor of this request being continually made and would be in favor of one more waiver in October and then no more. Ms. Murphy said she will not support this request. Ms. Holdgate said she would not support any weekend waivers but would support the one other time. Ms. Murphy moved to deny the request. The motion died for lack of a second. Ms. Ferrantella moved approval of the October 21st request and no further requests; seconded by Ms. Holdgate. So voted by roll call vote: Chair Bridges – Yes; Ms. Ferrantella – Yes; Mr. Fee – Yes; Ms. Holdgate – Yes; Ms. Murphy – No.

XII. ADJOURNMENT

Ms. Holdgate moved to adjourn at 9:06 PM; seconded by Mr. Fee. So voted by roll call vote: Chair Bridges – Yes; Ferrantella – Yes; Mr. Fee – Yes; Ms. Holdgate – Yes; Ms. Murphy – Yes.

Approved the 20th day of October 2021.

SELECT BOARD
OCTOBER 13, 2021 – 5:30 PM
REMOTE PARTICIPATION VIA ZOOM
NANTUCKET, MASSACHUSETTS

List of documents used at the meeting:

VIII. 1. Draft minutes of 10/6/2021
IX. 1. Strategic Plan Implementation Update; Power Point presentation
X. 1. HDC appeal of 38 Prospect St; Appellant submission; Memo from HDC re: appeal of 38 Prospect St decision; letter from Brown Rudnick LLP
XI. 1. Toscana request for Town Noise Bylaw waiver; Portion of SB minutes from 9/15/2021; letter of opposition from Sibley and Liddle