

SELECT BOARD

Minutes of Meeting of December 7, 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, Dr. Malcolm MacNab and Brooke Mohr. Dawn Holdgate joined remotely.

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. Public Information Forum for Surfside Water Main Extension Project and Surfside Area Roadway and Sidepath Projects to be Held Thursday, December 8, 2022, 5:30PM to 7:00 PM, PSF Community Room, 4 Fairgrounds Road and Remote Participation via Zoom Webinar; Registration link to Virtually Attend Meeting: https://us06web.zoom.us/webinar/register/WN_R8yEeF4vQOyzZChp4sWn2w.

Town Manager C. Elizabeth Gibson noted three additional announcements: a "Women in Science" program sponsored by the Nantucket Atheneum and the Town's Diversity Equity and Inclusion (DEI) Office is scheduled to take place on Friday, December 9 at 7:00 PM at the Atheneum; there is a COVID vaccine clinic taking place on Saturday, December 10 at the Nantucket Elementary School Cafeteria; and a hazardous waste day is scheduled for Saturday, December 10 at the Landfill from 9:00 AM to 1:00 PM.

Operations Administrator Erika Mooney said that the Surfside area sewer project will be undergoing night work over the next few weeks, beginning next week.

3. Select Board Announcements/Comments. None

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

There were no follow-up comments.

V. PUBLIC COMMENT

Esmeralda Martinez said that the annual Nantucket High School Senior Class December Delight is on December 10, 2022, at the High School.

Anne Dewez expressed dismay regarding a "hot mic" moment at a recent Select Board Strategic Planning workshop. She asked if the Select Board is planning a response or censure.

VI. NEW BUSINESS

There was no new business.

VII. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

Mr. Fee moved approval of items VII 1 -2; seconded by Ms. Mohr; so voted by roll call vote: Chair Bridges - Yes; Ms. Holdgate – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; Mr. Fee – Yes.

1. Approval of Minutes of November 29, 2022 at 9:00 AM; November 30, 2022 at 5:30 PM.

2. Approval of Treasury Warrants for December 7, 2022.

VIII. CONSENT ITEMS

1. Gift Acceptances: Nantucket Fire Department; Human Services (Saltmarsh Senior Center); Natural Resources Department. The gifts as presented were read. Mr. Mohr moved to accept all gifts for their designated purposes, with thanks to the donors; seconded by Dr. MacNab; so voted by roll call vote: Chair Bridges - Yes; Ms. Holdgate – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; Mr. Fee – Yes.

Gift from Mr. and Mrs. James Cirulli to Fire Department in the amount of \$200 for Safe Grant initiatives;

Gifts from Nantucket Energy, LLC in the amount of \$3,500 and Maureen and Ward Dunning in the amount of \$50 to Human Services for the Saltmarsh Senior Center;

Gifts from Emil Bender and Chuck Connors, each, of 100 adult oysters valued at \$200 for spawning stock at the Brant Point Shellfish Hatchery; \$23,547 from The Great Harbor Yacht Club Foundation for the deposit on the purchase of an algae bioreactor for the Brant Point Shellfish Hatchery.

IX. CITIZEN/DEPARTMENTAL/COMMITTEE REQUESTS

1. Short-term Rental Work Group: Update from Facilitator. Stacie Smith, of the Consensus Building Institute (CBI), engaged by the Town to facilitate the work group, provided an update of the group's recent progress. She summarized recent discussions and progress at the last two meetings. She noted there has been some concern as to ensuring that sufficient data is collected, and that the Town support the cost of that effort. Mr. Fee asked about the estimated cost, adding that he does believe it is important. Some discussion followed as to what data is available now, what is needed, how it will be obtained and what it might cost to obtain. Ms. Mohr offered to coordinate with Ms. Smith on this and come back to the Board with a proposal. Dr. MacNab, noting that he has a strong background in data collection and analysis, offered to assist. Chair Bridges said that he would be concerned about Select Board members getting too involved in any data analysis. Discussion followed as to the details of what data is necessary and how to properly analyze it. Ms. Holdgate expressed support for focused data collection and said she believes additional outside resources will be necessary, including analysis of the data over a period of time. Ms. Mohr suggested the Short-term Rental Work Group develop a scope of work and then work with the Finance Director as to any necessary procurement. Some discussion followed. Dr. MacNab challenged the work group to consider what data is really needed in light of what the group is charged with recommending, stating he is concerned too much time might be being spent on this unnecessarily. Discussion continued. The Board's general consensus was to obtain a defined scope from the work group, an estimated cost, a determination as to what procurement might be necessary and what funding is available.

2. Applicant Introduction/Review of Applications and Appointments to:

Zoning Board of Appeals. Ms. Mohr moved to appoint John Brescher for a term to expire in 2024; seconded by Mr. Fee; so voted by roll call vote: Chair Bridges - Yes; Ms. Holdgate – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; Mr. Fee – Yes.

Harbor Plan Update Committee. Phil Smith, Steven Leinbach, Karen Beattie, and Emily Molden each spoke on their applications. Natural Resources Director Jeff Carlson noted that Ms. Molden was appointed earlier today as the representative from the Clean Water Coalition. Chair Bridges disclosed that Phil Smith is a Board member of the non-profit that Chair Bridges works for. Mr. Carlson said that the meetings are public and public attendance is encouraged.

Board members voted as follows by paper ballot, with Mr. Holdgate texting her vote to Ms. Mooney:

Phil Smith – Ms. Mohr, Chair Bridges, Mr. Fee, Dr. MacNab
Steven Leinbach – Ms. Mohr, Chair Bridges, Ms. Holdgate, Mr. Fee
Karen Beattie – Ms. Holdgate, Dr. MacNab
Emily Kilvert

Phil Smith and Steven Leinbach were appointed. The applicants were all thanked for their applications.

Tree Advisory Committee. Ms. Mohr moved to appoint Judy Deutsch for a term to expire in 2025; seconded by Mr. Fee; so voted by roll call vote: Chair Bridges - yes; Ms. Holdgate – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; Mr. Fee – Yes.

3. Natural Resources Director: Review of Draft Proposed Conservation Commission Regulations. Mr. Carlson introduced the item, noting that proposed amendments to Conservation Commission (ConCom) regulations have been prepared to address environmental issues that have arisen recently, such as the increase in pools in potentially sensitive areas. He provided a summary of the proposed amendments. Mr. Fee inquired about a notice requirement for pool discharge. Mr. Carlson explained. Mr. Fee asked if there will be guidance as to how best to drain saltwater pools. Dr. MacNab asked about enforcement. Mr. Carlson said with the recent addition of staff, enforcement is available. Chair Bridges asked what the most significant change is in the regulations. Mr. Carlson said throughout the regulations, coastal resiliency measures are the most important. Ms. Holdgate asked if the change in buffer from 25 feet to 50 feet is a coastal resiliency measure. Mr. Carlson said it was brought up by Commissioners and public discussion is still pending on these regulations. He said some of the reason for the buffer zone increase relates to coastal resiliency in sensitive areas. Ms. Holdgate asked about using the sewer system to drain pools.

X. PUBLIC HEARINGS

1. Public Hearing to Determine Tax Allocation by Classification (Chapter 369, Acts of 1982, as Amended); Percentage of Residential Exemption to be Granted for Fiscal Year 2023 (Continued from November 30, 2022). Chair Bridges reopened the public hearing. Assessor Robert F. Ranney explained the purpose of the hearing; and how the tax allocation by classification is calculated. He spoke on the impact to average tax bills and reviewed the projected tax rates. He reviewed the impact of a 25% residential exemption on assessed valuations. Mr. Fee asked about a 20% residential exemption. Some discussion followed. Mr. Fee said he thinks a residential exemption at the maximum is a mistake because people get used to it too quickly. He added that he is happy with the way it is currently projected. Ms. Holdgate said she is in favor of the classifications as presented. Rick Atherton said he supports the maximum shift, including an increase in the residential exemption, stating that he does not believe commercial businesses are struggling. Ms. Mohr and Mr. Fee spoke on this, noting that businesses have a lot of expenses and employee housing costs are increasing. Charity Benz suggested the Short-term Rental Work Group focus on what the tax classification shift would be if short-term rentals become commercial properties.

There being no further public comment, Ms. Mohr moved to close the hearing; seconded by Ms. Holdgate; so voted by roll call vote: Chair Bridges - Yes; Ms. Holdgate – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; Mr. Fee – Yes.

Ms. Mohr moved to approve a shift of 170% of the tax burden to the commercial, industrial and personal property classes and to retain a residential exemption of 25% for FY 2023; seconded by Ms. Holdgate; so voted by roll call vote: Chair Bridges - Yes; Ms. Holdgate – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; Mr. Fee – Yes.

XI. TOWN MANAGER'S REPORT

1. FY 2024 Capital Project Requests Update. Finance Director Brian Turbitt reviewed the presentation contained in the Board's agenda packet, noting items that have changed since the last presentation earlier this fall. Mr. Fee asked about an outyear request involving upgrades for the Nobadeer Field House relating to building systems, noting his disappointment as to the overall cost of this facility. Some discussion followed as to various specific projects including Wauwinet bicycle path, Tom Nevers berm, Airport housing project. Mr. Turbitt also reviewed potential outyear debt exclusions. Ms. Mohr asked about Town employee housing projects. Mr. Turbitt explained. Ms. Gibson reviewed some specifics as to the potential for federal funding for the Wauwinet Road bike path. Mr. Atherton spoke about median reflectors and requested that an appropriation be included in the plan for this. Mr. Fee commented on high bid prices and said it is better to build in an economic downturn. Denise Kronau, Chair of the Finance Committee asked for a capital project update from prior years, when these projects get to the Finance Committee for review later in the budget development process.

2. Continued Preliminary Review of Town-Sponsored Warrant Articles for 2023 Annual Town Meeting and/or Ballot Questions for 2023 Annual Town Election, including Potential Charter Commission; and, Review of Anticipated Decision of Attorney General Regarding Article 71 of 2022 Annual Town Meeting (Gender Equality on Beaches). Ms. Gibson reviewed updates since the Board's prior discussion on November 30, including the addition of a home rule petition relating to the Town's issuance of pension obligation bonds, which was approved at the 2021 Annual Town Meeting but was inadvertently left off the outline for 2023. She introduced Town Counsel John Giorgio to review the specifics as to the ways in which Massachusetts municipalities may legally change their form of government. Mr. Giorgio reviewed a chart contained in the Board's packet as to these specifics. He clarified the differences between major and minor changes, noting that the more major the change, the more voter approval, outreach, time is necessary. He spoke about the types of changes from Massachusetts General Laws that can be accomplished, and how. He reviewed a home rule petition he drafted at the request of the Board, to change Select Board terms from three years to five years. He said that with five-year terms, one seat per year would be up for election. Chair Bridges asked how the signatures for a petition to elect a Charter Commission are collected. Some discussion followed as to the differences between the Charter Commission route and special act. Some discussion followed as to how the transition to five-year terms would work. Curtis Barnes asked how the five-year term concept arose. Chair Bridges reviewed the discussion the Board had about that. Ms. Holdgate said the discussion had been taking place for some time and that it relates to work level and familiarity with the types of issues facing the Board. Dr. MacNab spoke against five-year terms. Mr. Fee spoke in favor. Ms. Mohr spoke in favor, citing the steep learning curve as a reason. Mr. Giorgio noted the maximum term for an elected office in Massachusetts is five years. Mr. Fee asked about terms of Councilors vs Select Board. Mr. Giorgio said typically three years for Councilors, but five would be possible. Chair Bridges asked about the number of seats. Mr. Giorgio said that would be up to the Town in the writing of a charter for a Town Council but that they tend to run between nine and 13 members. Joanna Roche asked how many other Select Boards in the state have five-year terms. Mr. Giorgio said in his practice, he has not seen one but has also not conducted a state-wide survey. Rick Atherton commented that five-year terms are "incumbency protection". Mr. Fee said he believes the community should determine "where it wants to go" and what "we are trying to fix" before undertaking a major change. Ms. Mohr asked about the pending citizen petitions for the 2023 annual town meeting, noting the way they have been written will not, even if adopted, result in a change any time soon. She said she agrees with Mr. Fee's comment as to determining what the community wants to achieve. She said she would be willing to work on getting people together to engage in conversation on this. Mr. Giorgio said that with respect to the two petitioned articles, one is a non-binding directive to the Board to establish a charter review committee. He said the other article is not in proper legal form. Ms. Kronau said the five-year term idea and change of government are not mutually exclusive. Curtis Barnes spoke in favor of his citizen petition. Ms. Roche agreed with Ms. Mohr and Ms. Kronau and spoke in favor of increased community discussion. Chair Bridges said there is not enough time, regardless, for community discussion sufficient to educate people on a change, before the 2023 annual town meeting.

Discussion followed on how the Board could work on a way to engage community discussion, now, for a future town meeting. Chair Bridges spoke in favor of a Town Council form of government. Ms. Mohr suggested that the Board see what Town Meeting does with these warrant articles and determine what level of community engagement might emerge. Mr. Fee asked how zoning changes would work with a Town Council. Mr. Giorgio explained. Ms. Holdgate said she would prefer to wait on establishing a group to review a Town Council form of government, until the 2023 town meeting has acted on the citizen article(s). Chair Bridges polled the Board as to submitting a home rule petition for a charter review committee for the 2023 town meeting. General consensus was to see what happens with the Barnes article. Mr. Giorgio recommended that if the Board wanted to proceed with a charter review committee, a professional consultant be engaged to help determine what is desired by the community and what areas are up for change.

Mr. Giorgio reviewed and explained the Attorney General's decision on Article 71 (Gender Equality on Beaches) from the 2022 Annual Town Meeting, noting that it was received yesterday. He pointed out two items specified in the decision, one relates to private beaches (on which permission would have to be given for what is allowed in the bylaw); the other is what is the definition of "beach" and whether an amendment to the bylaw should be sought to define where the bylaw does and does not apply. Ms. Mohr asked if a season of experience before making any changes might be helpful. Mr. Giorgio concurred but noted that an amendment should be considered at some point. Some discussion followed.

XII. SELECT BOARD'S REPORTS/COMMENT

1. Committee Reports. No reports.

XIII. HDC APPEAL

1. Public Hearing to Consider the Appeal of Charles R. Schwarzapfel of Historic District Commission Disapproval of Certificate of Appropriateness No. HDC2020-10-2033 for a Pool, Patio, Screening and Fence Located at 9 Maine Avenue, Map 60.3.1, Parcel 425 (Continued from April 6, 2022, June 8, 2022, September 7, 2022). Arthur Reade, attorney for the appellant explained the current status of the application before the HDC and requested a continuance of the hearing to February 22, 2023. So moved by Ms. Mohr; seconded by Mr. Fee; so voted by roll call vote: Chair Bridges - yes; Ms. Holdgate – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; Mr. Fee – Yes.

XIV. ADJOURNMENT

Ms. Mohr moved adjournment at 8:08 PM; seconded by Mr. Fee; so voted by roll call vote: Chair Bridges - Yes; Ms. Holdgate – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; Mr. Fee – Yes.

Approved the 14th day of December 2022.

**SELECT BOARD
DECEMBER 7, 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. 2. Public Forum flyer
- VIII. 1. Gift summary & recommended motion; Fire Dept gift; Saltmarsh gift; NRD gift
- IX. 1. Email from Stacie Smith/CBI
- IX. 2. Committee Membership/Applicant list; Committee applications; Committee Appointment Policy
- IX. 2. Memo from Natural Resources Director re: ConCom regulations update; Summary of changes to ConCom regulations; Redline of Chapter 390/ ConCom regulations
- XI. 1. FY 2024 Preliminary Capital Improvement Plan update presentation
- XI. 2. Outline # 5 for 2023 ATM Warrant; Planning concept articles as of 11/30/2022; Select Board terms draft article; Options to change local government structure; Changing Mass. local government structure; Charter Commission procedures; Town Counsel - Options for changing Town Charter; Town Counsel comments on citizen warrant article submissions; AG decision re: Article 71 of 2022 ATM
- XIII. 1. Email from Arthur Reade re: request for continuance; HDC appeal of 9 Maine Ave; HDC appeals procedure; Appeal submission for 9 Maine Ave; HDC file: Memo from HDC re: appeal of 9 Maine Ave; HDC 9 Maine Ave packet