SELECT BOARD

Minutes of Meeting of December 21, 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, and Brooke Mohr. Dr. Malcolm MacNab joined the meeting remotely. Dawn Holdgate was absent.

I. CALL TO ORDER

Chair Bridges called the meeting to order at 6:00 PM, following a meeting of the County Commission.

II. SELECT BOARD ACCEPTANCE OF AGENDA

Chair Bridges said that item X-2, a utility petition public hearing has been withdrawn; otherwise, the agenda was accepted as posted.

III. ANNOUNCEMENTS

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

2. Town Offices will be Closed Monday, December 26, 2022 in Observance of Christmas and Monday, January 2, 2023 in Observance of New Year's Day.

3. No Select Board Meeting on Wednesday, December 28, 2022.

4. Select Board Announcements/Comments. No comments.

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

No follow-up items.

V. PUBLIC COMMENT

Megan Perry asked if the Board has considered the Conservation Commission's request for special counsel. She added she does not see how Town Counsel could represent both the Select Board and the ConCom. Mr. Fee said that a joint meeting with the Select Board and the ConCom has been requested to discuss this.

Tucker Holland said that Richmond Development Group is marketing the opportunity for its next round of affordable housing units and relayed contact information.

VI. NEW BUSINESS

There was no new business.

VII. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

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

1. Approval of Minutes of December 14, 2022 at 5:30 PM; Amended Minutes of November 2, 2022 at 5:30 PM.

2. Approval of Treasury Warrants for December 21, 2022.

3. Approval of Pending Contracts for December 21, 2022 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference. Mr. Fee moved to authorize the Town Manager to sign the "no cost" Operations and Maintenance agreement for the Surfside Wastewater Treatment Facility solar project per section 10.13 of the Engineering Procurement and Construction (EPC) agreement, subject to finalizing negotiations with Town Counsel; and, approval of all other pending contracts; seconded by Ms. Mohr; so voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Dr MacNab – Yes; Ms. Mohr – Yes.

VIII. CITIZEN/DEPARTMENTAL/COMMITTEE REQUESTS

1. Gift Acceptance: Natural Resources Department; Fire Department. Ms. Mohr read the list of gifts and designated purposes, and donors. Ms. Mohr moved to accept all gifts for their designated purposes, with thanks to the donors; seconded by Mr. Fee; so voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Dr MacNab – Yes; Ms. Mohr – Yes.

2. Short-Term Rental Work Group: Update from Facilitator. Stacie Smith, of the Consensus Building Institute (CBI), engaged by the Town to facilitate the Short-term Rental Work Group, reported that the Work Group held a Public Forum on December 5th which was very well attended. She said the Group is currently working on a summary of key themes that arose at the forum, that will be reviewed at a Work Group meeting scheduled for January 17th. Ms. Mohr said that she attended the forum and found it very informative and helpful. Chair Bridges and Mr. Fee agreed. John Kitchener, Work Group member, agreed the process was "really terrific" and suggested the Board consider it for other situations in the Town. Ms. Mohr spoke on remote participation as being an advantage for an issue like this. Ms. Smith concurred and said the Group is likely to consider public engagement ideas as it proceeds.

Town Manager C. Elizabeth Gibson requested Public Health Director Roberto Santamaria to provide an update on the implementation of the short-term rental registration program. Mr. Santamaria reviewed current activities on this and said software development is close to being completed and while the January 1, 2023 effective date, per the bylaw that authorized the regulations for the program will not be met, it is about two weeks behind. He reviewed other steps that need to take place, including staff training, public outreach and the set-up to accept registration payments. Ms. Mohr asked about outreach to the real estate offices. Mr. Santamaria indicated they are included.

3. Preservation Planner: Update on FY 2021 Massachusetts Historical Commission Project/Certified Local Government Status. Preservation Planner Holly Backus reviewed a presentation as contained in the Board's agenda packet. Mr. Fee spoke on the importance of the Historical Commission. Dr. MacNab concurred.

4. Licensing: Request for Renewal of Annual Licensing Categories Including Common Victualler, Local Entertainment, Rental Car Agencies, Motor Vehicle Sales Class I, II and III, Mobile Food Units and Local Flower/Produce Vendors. Mr. Fee recused himself from items VIII 4-5 and left the table.

Licensing Administrator Amy Baxter reviewed the renewal process. She noted she would like to schedule a public hearing to review unused rental car medallions. Ms. Mohr moved approval of all business license renewals as presented and contained in the Board's agenda packet; seconded by Dr. MacNab; so voted by roll call vote: Chair Bridges – Yes; Dr MacNab – Yes; Ms. Mohr – Yes.

5. Licensing: Request for Renewal of Annual Liquor Licenses. Ms. Baxter reviewed the renewal process. She noted that two licenses will not be renewed: Sophie T's and Keeper's. Ms. Baxter explained the status of some State-allowed COVID-related allowances that are going to be ending next spring: outdoor dining temporary premises alterations and alcohol-to-go. Ms. Mohr requested that if and when applications for permanent outdoor dining-related alterations come forward that they be presented "in context" and "as a whole" for better understanding of impact. Ms. Mohr moved approval of all annual liquor license renewals as presented and two non-renewals as noted and contained in the Board's agenda packet; seconded by Dr. MacNab; so voted by roll call vote: Chair Bridges – Yes; Dr MacNab – Yes; Ms. Mohr – Yes.

IX. REAL ESTATE ITEMS

1. Request for Approval and Execution of Licenses with the Nantucket Islands Land Bank for Land Bank to Provide Public Access to Land Bank's 19 East Creek Road Property:

a) License Agreement – East Creek Road (Roadway Improvements Using a Portion of the Town Roadway Layout Shown as "Proposed License Area" on Drawing Entitled "License Agreement Exhibit Plan East Creek Road"; Construction, Maintenance and Repair of Boardwalk to Provide Public Access to 19 East Creek Road Public Dock and Viewing Deck and Minor Grading to Accommodate an Accessible Parking Space on Adjacent Town-owned Property).

b) License Agreement to Construct, Maintain and Repair a Parking Space on Town-owned Property to Provide Access to 19 East Creek Road Public Dock and Viewing Deck, Remove Invasive Species, Add Additional Native Plantings and Construct, Maintain and Repair an American with Disabilities Act-Compliant Connector Path to Our Island Home.

Town Counsel Vicki Marsh introduced the items and explained the requests, as contained in the Board's agenda packet materials. Some discussion followed as to timing of construction of the project.

Mr. Fee moved approval of the license agreements as presented; seconded by Ms. Mohr; so voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Dr MacNab – Yes; Ms. Mohr – Yes.

2. Request for Approval and Authorization for Town Counsel to Execute Assent to Complaint to Recognize Taking and Approve Plan, for Taking of Hawthorne Street, Vernon Street and Nonantum Avenue. Ms. Marsh introduced the items and explained the requests, as contained in the Board's agenda packet materials.

Ms. Mohr moved approval as presented in the Board's agenda packet; seconded by Mr. Fee; so voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Dr MacNab – Yes; Ms. Mohr – Yes.

3. Request for Approval and Authorization for Town Counsel to Execute Assent to Complaint to Recognize Taking and Approve Plan, for Taking of Vernon Street and Waverly Street. Ms. Marsh introduced the items and explained the requests, as contained in the Board's agenda packet materials.

Ms. Mohr moved approval as presented in the Board's agenda packet; seconded by Mr. Fee; so voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Dr MacNab – Yes; Ms. Mohr – Yes.

X. PUBLIC HEARINGS

1. Public Hearing to Consider the Takings of the Fee or Lesser Interests, Together with any Public or Private Rights of Passage of All or Any Portions of the Following Paper Streets, Authorized by MGL Chapter 79 and Town Meeting Votes Noted Below:

a) Lots A and B, Masaquet Avenue, Lot C, Masaquet Avenue and Atlantic Avenue and Lot D, Masaquet Avenue and Atlantic Avenue on Plan of Land Entitled "Roadway Acquisition Plan in Nantucket, Mass. of Portions of Unconstructed 'Masaquet Avenue' 'Atlantic Avenue'," Prepared by Bracken Engineering, Inc., Dated June 13, 2022 and Recorded at Nantucket County Registry of Deeds as Plan No. 2022-48, Pursuant to Vote on Article 98 of 2011 Annual Town Meeting for Public Ways and/or General Municipal Purposes.
Chair Bridges opened the hearing. Real Estate Specialist Ken Beaugrand introduced the item and reviewed the purpose of the taking, as contained in the Board's agenda packet. Mr. Fee asked if any of the subject property will be made subdividable as a result of the taking. Mr. Beaugrand said no. Attorney Arthur Reade representing the abutter who will ultimately acquire the property said no and explained further about the intentions of the acquisition.

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

Ms. Mohr moved approval of the takings as presented and contained in the Board's agenda packet; seconded by Mr. Fee; so voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Dr MacNab – Yes; Ms. Mohr – Yes.

b) Magnolia Avenue, Shown as Lots P-1, P-2, P-3, P-4 and P-5 and Easements E-1 and E-2 on Plan of Land Entitled "Taking & Easement Disposition Plan, Magnolia Ave./East of Ocean Ave., Siasconset, Nantucket, Mass., prepared for: Town of Nantucket," Prepared by Blackwell & Associates, Inc., Dated October 26, 2022 and Recorded at Nantucket County Registry of Deeds as Plan No. 2022-51, Pursuant to Vote on Article 87 of 2012 Annual Town Meeting for Open Space Purposes.
Mr. Beaugrand introduced the item and reviewed the purpose of the taking, as contained in the Board's agenda packet. Chair Bridges opened the hearing. Ms. Mohr asked about the ultimate disposition of the property. Nantucket Land Bank Commission Director Jesse Bell explained the purpose of the transaction which relates to the reconstruction of beach stairs for public access.

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

Mr. Fee moved approval of the takings as presented and contained in the Board's agenda packet; seconded by Ms. Mohr; so voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Dr MacNab – Yes; Ms. Mohr – Yes.

2. Public Hearing to Consider Utility Petition from Verizon New England Inc. for Plan #MA2022-39 to Place One 4" Conduit Approximately 453' Beginning at Existing Manhole (MH 3138) on the Southerly Side of Madaket Road, Extending in a Westerly Direction along Madaket Road Approximately 344' to Existing Manhole (MH 3138-2) to Provide Service to 262 Madaket Road. Item withdrawn.

XI. TOWN MANAGER'S REPORT

1. Diversity Equity Inclusion (DEI) Director: End of Year Report. Town Manager C. Elizabeth Gibson introduced Dr. Kimal McCarthy, DEI Director. Dr. McCarthy reviewed the report as contained in the Board's agenda packet. Some discussion followed

2. Continued Discussion on FY 2024 General Fund Budget. Ms. Mohr asked for an escalation in funding for health and human services agencies. She spoke on the need and expressed hope to "grow that budget over time". Mr. Fee noted that funding has gone up in recent years and suggested it increase 2½% per year. Chair Bridges spoke in favor of the funding ultimately becoming 1% of the operating budget. Some discussion followed.

3. Continued Preliminary Review of Town-Sponsored Warrant Articles for 2023 Annual Town Meeting and/or Ballot Questions for 2023 Annual Town Election. Ms. Gibson reviewed changes from the Board's December 14th meeting and noted that after some recent discussion with abutters to the Surfside area (west of the Airport) water main extension project, an article should be added to authorize the Town to take easements as necessary by eminent domain. She added that Town Administration is going to be re-reviewing the fines for unauthorized removal of Town trees, as laid out in the Town Code for potential recommendation to increase them.

4. Monthly Town Management Report. Ms. Gibson reviewed the report as contained in the Board's agenda packet.

XII. SELECT BOARD'S REPORTS/COMMENT

1. Request from Airport Counsel for Select Board to Consent to Waive Potential Conflict to Represent Keep Nantucket Real Fund/Community Foundation for Nantucket with Respect to Whether Historic District Commission has Authority to Appoint Advisory Committees. Town Counsel John Giorgio explained the purpose of the agenda item and referenced an email he received from Airport Legal Counsel Mina Makarious recently. Mr. Giorgio noted that he has provided an opinion on the matter of HDC advisory committees. He said that it is a matter for the Select Board to either authorize or not the request. Chair Bridges asked if this relates to a "second opinion" on the subject matter. Mr. Giorgio said that the Board should consider the implications of a second opinion. Mr. Fee said that the issue before the Board is really, can Airport counsel work with a separate group on the HDC advisory committee matter. He added that he doesn't see a problem with it. Mr. Giorgio reviewed a similar request from Airport counsel regarding short-term rental issues, which was granted and now the Town is engaged in litigation with property owners who are using Airport counsel against the Town. Dr. MacNab said he doesn't see a conflict with use of the Airport counsel. Ms. Mohr asked who the named trustees are of the "Keep Nantucket Real Fund", the group that would be represented. Mr. Makarious said that he does not have that information because the firm is working to keep its attorneys separate on this. Mr. Fee asked how that information would be helpful. Ms. Mohr said she believes it is in the interest of transparency. Chair Bridges said he is comfortable with the request. Mr. Fee moved approval; seconded by Dr. MacNab; so voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Dr MacNab – Yes; Ms. Mohr – Yes.

2. Committee Reports. Ms. Mohr elaborated on the announcement Housing Director Tucker Holland made at the beginning of the meeting, noting that the Richmond Group is available to help people with the necessary application.

XIII. ADJOURNMENT

Mr. Fee moved adjournment at 7:44 PM; seconded by Ms. Mohr; so voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Dr MacNab – Yes; Ms. Mohr – Yes.

Approved the 4th day of January 2023.

SELECT BOARD
DECEMBER 21, 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:

VII. 1. Draft minutes of 12/14/2022; Draft amended minutes of 11/2/2022
VII. 3. Pending contracts spreadsheet
VIII. 1. Gift summary & recommended motion; NRD gift; Fire gift
VIII. 3. AIS re: update on Mass Historic project/CLG; Presentation on CLG survey & planning project; Draft survey plan document; Form B example
VIII. 4. AIS re: Annual Business License Renewals; Common Victualler; Entertainment; Rental Car; Auto Sales; Mobile Food Unit; Flower/Produce
VIII. 5. AIS re: Annual Liquor License Renewals; ABCC Certification; Liquor
IX. 1. a & b. AIS re; Licenses for 19 East Creek Rd; East Creek Rd License; License plan; Our Island Home property license; License plan
IX. 2. AIS re: Land Court Assent for Taking of Hawthorne St, Vernon St & Nonantum Ave; Assent; LC Plan No. 17745-R; Taking of Hawthorne St; Taking of Irving St; Taking of Surfside Beach Parcels
IX. 3. AIS re: Land Court Assent for Taking of Waverly St & Vernon St; Assent; Subdivision plan 1; Subdivision plan 2; Taking of Vernon St & Waverly St
X. 1a. AIS re: Taking of Masaquet Ave & Atlantic Ave; Order of Taking of Portions of Masaquet Ave & Atlantic Ave; Plan No. 2022-48
X. 1b. AIS re: Taking of Magnolia Ave; Order of Taking of Portions of Magnolia Ave; Plan No. 2022-51
X. 2. AIS re: Verizon utility petition re: Madaket Rd; Departmental comments; Verizon Madaket Rd petition; Plan
XI. 1. DEI End of Year Report
XI. 2. FY 2024 General Fund Budget presentation; FY 2024 Budget Message
XI. 3. Outline # 7 for 2023 ATM Warrant
XI. 4. Town Manager Monthly Management Report
XII. 1. Airport request for conflict waiver request; Select Board 2/3/2021 minutes