SELECT BOARD

Minutes of the Meeting of January 10, 2024. 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 Dawn Hill Holdgate, Brooke Mohr, Matt Fee, Thomas Dixon and Dr. Malcolm MacNab.

I. CALL TO ORDER
Chair Holdgate called the meeting to order at 5:30 PM.

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

III. ANNOUNCEMENTS
Town Manager C. Elizabeth Gibson reviewed the announcements.

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

2. Legislative Update with Nantucket Delegation. This item was taken up later in the meeting as noted.

3. Select Board to Hold Comprehensive Solid Waste Update Meeting on Thursday, January 11, 2024 at 6:00 PM in PSF Community Room at 4 Fairgrounds Road and via Zoom Webinar; Register at https://us06web.zoom.us/webinar/register/WN_ULgvE0FSSSme5HdKjzubxQ.

4. Town Offices will be Closed Monday, January 15, 2024 in Observance of Martin Luther King, Jr. Day.

5. Select Board Announcements/Comments. Chair Holdgate said that next week the Board meeting will be fully remote.

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

V. PUBLIC COMMENT
Campbell Sutton asked that an update on affordable housing activities be scheduled.

Hilary Rayport asked that an update on the Historic District Commission operational review be scheduled.

Meghan Perry thanked the public for its "continued support in the appeal of Surfside Crossing".

Ms. Perry asked for an update on the Nantucket Planning and Economic Commission and Town of Nantucket memorandum of understanding discussed several months ago as being scheduled for a January Board meeting. At the request of Chair Holdgate, Ms. Gibson responded that it has not yet been scheduled and will hopefully be scheduled shortly.

Ms. Perry commented on a previously discussed possible proposal for a compensation increase for the Select Board. Ms. Perry asked if the "Finance Department would be included in the Select Board compensation discussion". She noted that the Select Board members receive health insurance through the Town.

III. ANNOUNCEMENTS
2. Legislative Update with Nantucket Delegation. State Senator Julian Cyr joined the meeting remotely and reviewed pending legislation relating to:

Affordable housing (housing bond bill; transfer fee; seasonal communities' designation – designed for the unique housing needs of those communities) - he urged Islanders to submit testimony on these proposals and commented that because of testimony already submitted from the Islands, some of this legislation has progressed significantly. He also thanked Town staff for their assistance with these initiatives.

Steamship Authority – he referenced the recent filing of a bill that would change the voting authority of the Steamship Board of Governors and commented that this is a "perennial" bill and does not expect it to progress.

He said that the Town has 11 pending home rule petitions and reviewed their legislative status.

Senator Cyr said that Representative Dylan Fernandes could not be present tonight and thanked him for his partnership to represent the Island. He reviewed the Cape and Islands Water Protection Fund and again urged the Town to consider joining that fund, noting that it has been very successful in providing funding to Cape towns for wastewater infrastructure improvements.

Ms. Mohr asked about any state action around the regulation of E-bikes. Senator Cyr responded that he would have to check on anything pending and suggested the Town provide information as to what specific issues these devices are causing. Mr. Fee said that if the Town had a "memorandum of agreement" with the Cape and Islands Water Protection Fund, to "get back what it puts in", he believes the Town would be very interested. Senator Cyr explained how, generally, the fund works. He acknowledged that Nantucket would likely be the largest contributor to the fund. He said he did not believe such a memorandum of agreement as mentioned by Mr. Fee would be legal. Mr. Fee asked about a pending home rule petition relating to the Nantucket Planning and Economic Development Commission. Senator Cyr explained there has been one hearing so far and it is pending before a legislative committee. Mr. Fee spoke on the transfer fee bill and the increasingly urgent need for non-property tax revenue to help offset the costs of necessary housing. Senator Cyr spoke further on Nantucket's efforts in this area. Mr. Fee asked about public beach access legislation introduced a few years ago. Senator Cyr said that it remains "in committee". Mr. Fee said the Town would be willing to send a letter in support of this legislation. Senator Cyr said he would send the information about the bill, including to whom a letter would be sent. Mr. Dixon asked about PFAS regulations; "dark money" at town meetings and year-round deed restrictions. Senator Cyr said he is working to include year-round deed restrictions into the housing transfer fee bill. He said that with respect to "dark money", while Massachusetts has robust laws around campaign finance, there is a loophole with respect to warrant articles that do not go to a ballot and that he and Representative Fernandes have filed a bill to "close the loophole". He said that regarding PFAS there are pending bills relating to firefighting gear.

The Board thanked Senator Cyr for attending and providing these updates.

VI. NEW BUSINESS
There was no new business.

VII. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS
Mr. Fee requested an additional sentence in the minutes related to a discussion as to "Turo". There were no objections to the addition. Ms. Mohr moved approval of items VII 1 – 4; seconded by Mr. Dixon; all in favor, so voted.

1. Approval of Minutes of December 20, 2023 at 5:30 PM.

2. Approval of Payroll Warrants for December 24, 2023; January 7, 2024.

3. Approval of Treasury Warrants for December 27, 2023; January 3, 2024; January 10, 2024.

4. Approval of Pending Contracts for January 10, 2023 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference.

VIII. CONSENT ITEMS
1. Gift Acceptances: Natural Resources Department; Human Services (Saltmarsh Senior Center); Fire Department. Ms. Mohr read the names of the donors. Ms. Mohr moved to accept all gifts for their designated purposes, with thanks to the donors; seconded by Mr. Fee; all in favor, so voted.

IX. REAL ESTATE MATTERS
1. Request for Approval and Execution of Purchase and Sale Agreement, Quitclaim Deed and Land Development Agreement for 5, 7 and 9 Waitt Drive, Shown as Lots 88, 89 and 90 on Plan of Land Entitled "Division Plan of Land in Nantucket, MA., Prepared for Town of Nantucket," Dated June 3, 2016 and Recorded with Nantucket County Registry of Deeds as Plan No. 2016-58, with Habitat for Humanity, Pursuant to Vote on Article 101 of the 2014 Annual Town Meeting. Ms. Mohr moved approval as presented; seconded by Mr. Dixon; all in favor, so voted.

X. PUBLIC HEARINGS
1. Public Hearing Regarding Proposed FY 2025 General Fund Budget. Chair Holdgate opened the hearing. Ms. Gibson recapped the most recent actions taken on the budget, with a Town Administration presentation on its recommendations to the Board on December 13, 2023, some further Board discussion on December 20, 2023 and a presentation to the School Committee on January 9, 2024.

As there was no public comment, Mr. Dixon moved to close the hearing; seconded by Ms. Mohr. All in favor, so voted.

Ms. Mohr moved to accept and endorse the budget recommendations as presented; seconded by Mr. Fee. Dr. MacNab asked what the tax increase would be for this budget. Ms. Gibson said that no overrides are proposed with this budget; however, there will be capital projects dependent on debt exclusions in the 2024 annual town meeting warrant. Some discussion followed. Mr. Fee noted there may be property tax increases due to property valuation increases. Mr. Fee suggested that a list of the projects to be dependent upon debt exclusions be provided to the Board. On the motion, all in favor, so voted to endorse the budget.

XI. TOWN MANAGER'S REPORT
1. Review of Preliminary Draft Warrant for 2024 Annual Town Meeting and 2024 Annual Town Election. Ms. Gibson proceeded to review the articles contained in the draft warrant. Discussion noted below. Planning Director Leslie Snell reviewed the zoning articles, as now in the warrant in draft form.

Proposed rental vehicle bylaw amendments. Discussion followed on the amendments prepared by Town Counsel at the Board's request. Mr. Fee asked if previous language pertaining to whether or not a rental vehicle can be included with a house rental would remain active. Ms. Gibson said that she is unfamiliar with that provision in the existing bylaw but that except for two proposed language amendments, the existing bylaw would remain as is. Mr. Giorgio said he would re-review the existing bylaw to determine what Mr. Fee may be referring to. Mr. Fee said he is concerned about unintended consequences with the amendments.

Ms. Gibson noted that the Board has previously referenced the possibility of it sponsoring a short-term rental (STR) bylaw but that so far, nothing has been requested to be prepared. Ms. Mohr asked the Board if there is consensus not to include an article at this time, but to monitor what's been proposed by citizens for the 2024 annual town meeting and the outcome of pending litigation. Some discussion followed. Mr. Dixon concurred with Ms. Mohr. Dr. MacNab said he would want to consider this in much more detail and is not prepared to put forward an article at this time. Mr. Dixon referenced an STR bylaw adopted by the Town of Provincetown earlier this year. Mr. Giorgio explained the bylaw and said it is still under review by the Attorney General and that it bans corporate ownership and limits the number of STRs someone can own. He noted that the submitted citizen petitions address these two issues. Discussion followed on whether or not the Board wants Town Counsel to draft an article to address corporate ownership, the number of STRs one can own and fractional ownership. Ms. Mohr said she would prefer there to be a majority of the Board who wants Town Counsel to spend the time on this. Discussion followed as to timing of the adoption of the warrant, the thoroughness of consideration of a potential article and the potential unintended consequences of either of the citizen petitions. Mr. Dixon suggested that Town Counsel proceed to prepare the bylaw to address the three components as discussed. Dr. MacNab agreed and commented that the Board should have done this quite a while ago. So moved by Mr. Dixon; seconded by Dr. MacNab; so voted 4-0. Chair Holdgate abstained from the vote. Mr. Giorgio noted that if the Attorney General determines the Provincetown bylaw not to be legal, there may need to be "tweaks" in a Finance Committee Motion or at Town Meeting.

Ms. Gibson reviewed a series of three articles related to coastal resiliency, the concepts of which have previously been reviewed by the Board: a home rule petition, a bylaw amendment and an article seeking authorization for an erosion control project on Town property at Baxter Road pursuant to a provision of the Town Code. Attorney Vicki Marsh of Town Counsel's office summarized each article. Mr. Fee suggested that the Coastal Resiliency Advisory Committee (CRAC) review these articles. He also asked about a different title from "Coastal Resiliency District" saying he was not sure it is clear enough. Some discussion followed. Mr. Fee asked what can happen with betterments, now, including "yearly betterments" for something like sand mitigation. Ms. Marsh said that CRAC has reviewed this and had recommended the approach being proposed, including the title "Coastal Resiliency District". Discussion followed on betterments. Mr. Fee said he thinks betterments should be applied to the Baxter Road alternative access project. Ms. Marsh spoke on the legal aspects of assessing betterments. She noted that the articles are not quite final at this point. Mr. Fee spoke about "moving forward" with betterments under Massachusetts General Law. Rick Atherton suggested including a chart to show who has the authority to designate a coastal resiliency district and other authorities that a district may have. Discussion followed on the third article which relates to a town meeting authorization for the Select Board to lease/license Town-owned property for a coastal erosion structure at Baxter Road. Ms. Marsh reviewed the article.

Ms. Mohr asked about the community housing bank transfer fee home rule petition and whether or not the threshold of the median home price needs to be changed from its original number. Housing Director Kristie

Ferrantella responded and said that if the relevant state legislation passes, it will have to come back to town meeting for adoption anyway. Some discussion followed on this. Former Housing Director Tucker Holland concurred with Ms. Ferrantella and noted that this issue was reviewed with Senator Cyr's office and that there is no getting around the need for a future town meeting vote once the state legislation was to pass, if the Town wanted to "opt in". Ms. Marsh expanded on the state vs town legislation. Ms. Ferrantella explained another home rule petition relating to authorizing the Affordable Housing Trust to be able to issue year-round housing occupancy restrictions. Some discussion followed. Mr. Fee questioned the legality of such a deed restriction. Some discussion followed, Ms. Marsh elaborated on this and said that a private individual, now, could not get paid for voluntarily putting such a deed restriction on their property; and, that is what this home rule petition would allow. Mr. Holland spoke on this being a supplemental initiative to demonstrate Nantucket's commitment to affordable year-round housing.

XII. SELECT BOARD'S REPORTS/COMMENT

1. Discussion on Superior Court Decision Regarding Surfside Crossing (No. 2275-00025; 2275-00026).

Chair Holdgate introduced the item and asked Attorney George Pucci from Town Counsel's office to explain the decision. Mr. Pucci explained the recently issued decision, which was in response to an appeal to the Housing Appeals Committee of this 40B project. Mr. Pucci explained the history of the appeal and the most recent decision. He said that the building permit for the project has been revoked and that the project has been remanded to the Zoning Board of Appeals with respect to an issue with condominiums. He reviewed the timing of an appeal to be filed to this decision. Mr. Pucci said he believes there is very little chance that an appeal would be upheld. He said no correspondence has been received from the developer. Ms. Mohr asked if the ZBA review starts again with respect to the condominium project change. Mr. Pucci replied affirmatively. Chair Holdgate asked if the ZBA could potentially re-negotiate with the developer on issues of concern previously. Mr. Pucci replied affirmatively. He added that the Town is also free to have discussions with the developer. He said that there is also the possibility of a formal mediation process to negotiate with the developer. Some discussion followed. Mr. Pucci explained the mediation process and some discussion followed as to the parties who could potentially be involved in mediation and the timing of the ZBA remand and how interest in a mediation process would be made known. Ms. Mohr moved to begin the process of proposing mediation to the parties involved, who are represented by counsel, including the ZBA, that interest to be expressed within 21 calendar days of today; with Mr. Pucci to make the contacts, in conjunction with the Planning Director; seconded by Mr. Fee; all in favor, so voted. Ms. Mohr suggested that Mr. Pucci could provide some recommended mediators.

2. Committee Reports.

Dr. MacNab asked for a report of boat discharge in the harbor. Mr. Dixon thanked Police Chief Kasper for meeting the public last week at a "Meet and Greet". Chair Holdgate reported on the Our Island Home project and recent progress being made toward design of a new facility. Mr. Fee spoke on a chemical used with tires that may be of environmental concern. Mr. Fee reported on a CRAC meeting that occurred yesterday. Ms. Mohr spoke on a joint effort with the Land Bank to design coastal resiliency for Washington Street.

XII. ADJOURNMENT

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

Approved the 17th day of January 2024

SELECT BOARD
JANUARY 10, 2024 – 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. Solid Waste meeting flyer
VII. 1. Draft minutes of 12/20/2023
VII. 4. Pending Contracts spreadsheet
VIII. 1. Gift Summary & Recommended Motion; NRD gift; Saltmarsh gift; Fire gift
IX. 1. AIS re: Lots 88, 89 and 90, Waitt Dr; Purchase and Sale Agreement; Land Development agreement; Quitclaim Deed; Plan No. 2016-58
X. 1. XI. 3 - FY 2025 General Fund Budget Recommendations; FY 2025 Town Manager's Budget Message
XI. 1. Preliminary DRAFT 2024 ATM Warrant
XII. 1. Surfside Crossing - Superior Court Decision