SELECT BOARD

Minutes of the Meeting of February 21, 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 Holdgate, Tom Dixon, Matt Fee and Brooke Mohr. Dr. Malcolm MacNab participated remotely.

I. CALL TO ORDER

Chair Holdgate called the meeting to order at 5:30 PM, following the Pledge of Allegiance.

II. SELECT BOARD ACCEPTANCE OF AGENDA

Chair Holdgate said there will be one additional announcement. The agenda was otherwise accepted as presented.

III. ANNOUNCEMENTS

Assistant Town Manager Gregg Tivnan reviewed the following announcements:

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

2. No Select Board Meeting on Wednesday, February 28, 2024 (School Vacation Week); Next Meeting to be Held on Wednesday, March 6, 2024.

Operations Administrator Erika Mooney announced that there will be a public information session regarding the 3rd Sewer Force Main project as it moves from Lily Street to Liberty Street on Thursday, February 29, 2024 in the PSF Community Room at 4 Fairgrounds Road and via Zoom. She noted multiple road closures and detours as a result.

3. Select Board Announcements/Comments. Ms. Mohr announced she is part of a language exchange group which has recently started.

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

1. Follow-up on February 14, 2024 Public Comments. Chair Holdgate read the public comment follow-up document contained in the Board's agenda packet regarding 1) a request for a joint meeting between the Select Board, Airport Commission and Board of Health concerning the proposed Airport expansion, 2) a question about bottled water delivery to some residents west of the Airport who were impacted by PFAS (Per- and Polyfluorinated Substances), and 3) various matters concerning Surfside Crossing. She said that if the Board wants a joint meeting with the Airport Commission, it can be organized.

V. PUBLIC COMMENT

Peter Mackay disagreed with the responses from Airport Manager Noah Karberg regarding PFAS and the Airport expansion, as read by Chair Holdgate. He said he has a letter from Mr. Karberg saying his water delivery will cease on February 28. Mr. Mackay asked that transparent due process be afforded the area residents who will be impacted by the Airport expansion, noting they received no notification of project. He asked the Board to request the Airport Commission to pause the expansion project until "real dialogue" can happen.

Meghan Perry thanked the Board again for having a Code of Conduct for Town employees.

Meghan Perry echoed Mr. Mackay's comments and again asked for a joint meeting of the Select Board, Airport Commission and Board of Health, noting that tree cutting is scheduled to happen for the Airport expansion within the next two weeks. She added that jets are luxuries, but clean, safe water in not.

Meri Lepore echoed Mr. Mackay's and Ms. Perry's comments. She said due to health issues from PFAS, the Board of Health should be involved in the proposed joint meeting. She said she feels the Airport started taking about its expansion project while area residents were focused on PFAS contamination remediation. She asked the Board to request the Airport Commission to pause the expansion project.

Anne Phaneuf said she and her family have been living with PFAS and cancer for years and expressed disbelief that the Airport plans to construct a berm filled with PFAS-contaminated soils on top of the neighbors who have already been impacted. She said there has been a lack of direct communication from the Airport with the area residents. She spoke about the care that used to be given to the "fragility of this island" and the thought that went into where things were put, and this is happening without more thought of the impacts to residents.

Adam Ross said his property has been directly affected by noise and air quality from the Airport and he feels there are other areas within the Airport property where this expansion could have gone. He added that he feels the berm is a way to dispose of PFAS-contaminated soils.

Chair Holdgate thanked the speakers for their comments, noting the Select Board doesn't usually take action on public comment. Mr. Fee asked if a discussion on this matter can be added under New Business, since the trees are scheduled to be cut down soon and the Select Board doesn't meet next week. Chair Holdgate agreed to add this as New Business but to hold it until the end of the meeting so Board members could have time to think about it. Ms. Mooney said that the matter can be heard under New Business since it was not reasonably anticipated by the Chair within 48 hours of the meeting. Ms. Mohr and Dr. MacNab spoke in favor of discussing this matter next, as people are currently present at the meeting. Chair Holdgate agreed.

VI. NEW BUSINESS

Chair Holdgate suggested the Board request a joint meeting between the Board and the Airport Commission and invite the Board of Health to attend, ideally at a regular Wednesday Board meeting or another date and ask the Airport Commission to not move forward with the project at this time. Ms. Mohr moved to send a letter to the Airport Commission requesting they delay the beginning of this project until a joint meeting can be scheduled. Chair Holdgate asked that the motion include that the meeting should be scheduled within the first two weeks of March. Ms. Mohr accepted that as a friendly amendment to her motion; seconded by Mr. Fee. Dr. MacNab, chair of the Board of Health, said it would be difficult to coordinate all three groups and agreed that the Board of Health should be invited to attend. Ms. Mohr accepted that as another friendly amendment to her motion. On the motion with the two amendments, by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr - Yes; so voted.

VII. APPROVAL OF MINUTES AND WARRANTS

Mr. Fee reviewed two edits he would like to make to the draft February 14, 2024 minutes. Mr. Dixon moved approval of items VII-1 – 4 with the edits to the February 14th minutes as requested by Mr. Fee; seconded by Ms. Mohr; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr - Yes; so voted.

1. Approval of Minutes of February 12, 2024 at 11:00 AM; February 14, 2024 at 5:30 PM.

2. Approval of Payroll Warrants for February 18, 2024

3. Approval of Treasury Warrants for February 21, 2024.

4. Approval of Pending Contracts for February 21, 2024 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference.

Airport Commission chair Arthur Gasbarro joined the meeting remotely and Chair Holdgate allowed him to speak on the action the Board took. Mr. Gasbarro agreed to a joint meeting between the Select Board and Airport Commission and working collaboratively. He explained that the PFAS-contaminated soil that sits at the Airport property can continue to leach into the ground when rainwater falls on it. The proposal is to wrap the soils in a membrane and to create a berm with it, stopping the leaching to improve the situation.

VIII. JOINT MEETING WITH HISTORIC DISTRICT COMMISSION

1. Presentation/Discussion of Historic District Commission (HDC) Organizational Assessment. HDC chair Ray Pohl called a meeting of the HDC to order at 6:01 PM. Lisa Craig, Will Cook and Kim Rose of the National Alliance of Preservation Commissions (NAPC), reviewed the presentation of the HDC organizational assessment as found in the Board's agenda packet. Ms. Craig noted that the scope of the project was changed and no former members of the HDC, no former staff and no selection of applicants and agents and other stakeholders were interviewed. Ms. Mohr asked who changed the scope as that is quite a change from what she intended as part of this project. Ms. Craig said the Nantucket liaison, Preservation Planner Holly Backus, did. Dr. MacNab expressed concern about the change in scope as the Board really wanted outside comments; he asked why the change was made. Chair Holdgate agreed and said she was surprised she wasn't interviewed as a past HDC member. No answer was given as to why.

At 6:13 PM, Chair Holdgate left the meeting; she returned at 6:15 PM.

Mr. Fee asked about landscaping and how the review of landscaping by the HDC has changed over the years. The NACP team responded. Mr. Fee asked about signage, stating he knows the Sign Advisory Council was not consulted, and said he is worried about eliminating review of store and street signs. Ms. Craig said the report only contains recommendations, and it is up to Nantucket to discuss any implementation. Some discussion followed on the demolition application process, HDC staffing and procedural processes.

At 7:07 PM, Ms. Mohr left the meeting; she returned at 7:12 PM.

Planning Director Leslie Snell said she appreciates the NACP team but is concerned about the amount of recommendations, noting many won't work within the current framework of staffing and the HDC's enabling legislation. She added that they are good recommendations but to enact them, it will require lots of changes.

At 7:25 PM., Chair Holdgate left the meeting; she returned at 7:29 PM.

HDC member Vallorie Oliver said many items in the report are already done by the HDC, although she acknowledged that they could be "tightened up". Dr. MacNab acknowledged that a great deal of work went into the report but he still hasn't heard why the original charge was not followed resulting in many people being cut from the study resulting in missed input. Ms. Backus confirmed that within the scope was an interview list which was supposed to be more expansive and she apologized that it didn't end up being part of the project. Mr. Fee requested an update in a few months on any steps taken from the assessment. Hillary Rayport said she thought the disbandment of the various HDC advisory boards was one of the reasons for the assessment. She asked why the issue of advisory boards were not part of the report and why demolition was not looked at more deeply. Ms. Craig said the scope was to look at the HDC organizational structure so the assessment didn't dive into demolitions or demolitions by neglect. She said regarding advisory boards, NACP was limited as to who could be interviewed. Chair Holdgate asked if the scope was cut back, if there is money left in the contract to continue with interviews. Ms. Backus said the contract ended today. Chris Young of the Sign Advisory Council (SAC) said they were blindsided by the report saying the SAC is no longer necessary. He asked the Select Board to not consider that recommendation.

The HDC adjourned its meeting at 7:58 PM.

IX. TOWN MANAGER'S REPORT

1. Baxter Road Alternate Access Updates:

a) Permanent Alternate Access – 90% Design Plan Review; b) Emergency Readiness Plan Overview.
Sustainability Programs Manager Vince Murphy said the last time this matter was presented to the Board the design plan was at 60% complete and much substantial input was received on those plans, including emergency services access. He said the 90% complete plans were finished about three weeks ago and smaller tweaks have been suggested since then. He introduced Bill Casey of Arcadis to review the 90% completion plan presentation that is in the Board's agenda packet. Mr. Casey reviewed the two presentations, one being the permanent alternate access being proposed and one on an emergency readiness plan. Mr. Fee asked about the entrance configuration to the Sankaty Head Gold Club and how it intersects with the Polpis Bike Path. Mr. Murphy explained it is the existing layout and is not proposed to change. Mr. Fee asked is a discussion could be had with Sankaty Head Golf Club about reconfiguring the entrance to make it safer for bikers, saying there have been too many close calls there. Mr. Casey reviewed estimated project costs with the low end at $31,000,000 and the high end at $43,760,000. Mr. Fee said he was shocked by the cost and shared the cost slides with Coastal Resilience Coordinator Leah Hill to encourage the Coastal Resilience Advisory Committee (CRAC) to start taking about how to cost share and afford projects like this around the entire island. He spoke in favor of working cooperatively with abutters on alternate access and granting easements. Regarding emergency readiness and utility access, Chair Holdgate asked Dr. MacNab if the Board of Health has discussed any temporary permitting if tight tanks are needed as an emergency measure for the disposal of sewage, similar to what is allowed on Smith's Point. Dr MacNab said no, but he can add a discussion to an agenda. Mr. Murphy said he has been trying to make the process as inclusive as possible with the affected Baxter Road property owners and building good-will with them, stating that an alternative access is a huge benefit to them to allow them continued use of their properties and keep this area as a viable community. Re the cost – the mean cost is 36M and reviewed options on how to pay for it including cost sharing between the town and the affected residents. Mr. Fee spoke if his hope of hold harmless agreements and easement agreements being voluntarily entered into by the residents with the Town. Mr. Murphy said his goal is to make this a cooperative, not competitive, effort and acknowledged that not all impacted residents are happy with the Town's plans.

X. SELECT BOARD'S REPORTS/COMMENT

1. Update/Discussion of 2024 Annual Town Meeting Short-term Rental Articles. Chair Holdgate recused herself from this matter and left the table. Attorney John Giorgio led the Board through the proposed motion for Article 60 of the 2024 Annual Town Meeting (ATM) which he said was worked on with Ms. Mohr, Article 61 sponsor, Steven Cohen, and Article 62 sponsor, Michael Kopko. He said all parties reached an agreement on the compromised bylaw, which is shown in the motion for Article 60; he said if the Select Board is in favor of the proposed motion for Article 60, the motions for Articles 61 and 62 would be to take no action. Ms. Mohr discussed fractional ownership and said it was not included as it is not currently addressed in the Zoning Bylaw. Mr. Giorgio explained that Mr. Cohen is the sponsor of another short-term rental article for zoning, Article 59, and all parties agreed that bringing this article forward at this town meeting could be divisive and sink the general bylaw. He said Mr. Cohen spoke with the people he represents and they are agreeable to a Finance Committee motion to take no action unless the court orders that short-term rentals are illegal prior to the May 7 town meeting. Mr. Fee said he feels a short-term rental zoning bylaw is the "scariest" article and wants the article to be called on first. Regarding the motion for Article 60, Mr. Fee said he can see why the motion compromise is acceptable but worries it is not effectual. He said he likes Mr. Kopko's article better than what is being proposed and feels the motion for Article 60 is not doing anything – it has "no teeth". Finance Committee

Chair Denice Kronau noted that the number of short-term rentals are down over the last two years, based on registrations and who is paying taxes. She gave kudos to group on this effort for a compromise. Mr. Giorgio said Mr. Kopko and Mr. Cohen feel the motion will be supported by the Finance Committee, adding it is not perfect but it is a start. Ms. Kronau said she wants to see a constructive way forward and suggested we see what the Finance Committee and ultimately, the voters think. Ms. Dixon asked if there is an update on the Provincetown general bylaw on fractional ownership. Mr. Giorgio said it is still pending but he feels there will be an answer by May 7. Mr. Dixon spoke against fractional ownership and thanked all parties for working towards a compromise. Some discussion followed on fractional ownership and that there is currently no way to legally distinguish corporate fractional ownership vs. members of a family owning portions of a house. Ms. Mohr stressed that the group tried to simplify the article motion as a first step to get the community to understand some parts of short-term rentals. Mr. Fee spoke against the proposed motion and said if zoning allows short-term rentals in all districts than the island is "sunk". Dr. MacNab said he agreed with all the Board members and he supports Mr. Fee regarding the zoning concerns, but said anyone can amend a motion, no matter who puts it forward. He said he likes Mr. Kopko's article better but he will support this motion as it is "better than nothing" and he feels we are on the right path. Ms. Mohr said the Board cannot remove a zoning article or prevent anyone from calling one at town meeting. Ms. Kronau stated that the Finance Committee can make a motion to take up Article 60 first and said Mr. Cohen's compromise is if Article 60 passes, he will make a motion to take no action on Article 59. Mr. Fee said he doesn't agree that that is a compromise. Mr. Kopko spoke in favor of the proposed Article 60 motion. Mr. Mohr spoke on the enforcement mechanisms under the Short-Term Rental Bylaw as it exists includes the revocation of short-term rental certificate for non-compliance. Mr. Giorgio noted that there is also a $5,000 civil penalty. Mr. Dixon moved to support the proposed Finance Committee motion for Article 60 as found in the Board's packet; seconded by Dr. MacNab; by roll call vote: Mr. Fee – No; Mr. Dixon – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

<u>2. Committee Reports.</u> Chair Holdgate rejoined the meeting and spoke on a meeting regarding Our Island Home today. She said "great progress" is being made and a presentation is being planned for the Select Board on March 20, 2024.

<u>XI. ADJOURNMENT</u>

Ms. Mohr moved adjournment at 9:14 PM; seconded by Mr. Fee; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr - Yes; so voted.

Approved the 6th day of March 2024

SELECT BOARD
FEBRUARY 21, 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:

IV. 1. Public Comment follow-up from 2/14/2024; Email threads re: Surfside Crossing mediation
VII. 1. Draft minutes of 2/12/2024; 2/14/2024
VII. 4. Pending Contracts spreadsheet
VIII. 1. HDC Organizational Assessment presentation; HDC Organizational Assessment Report
IX. 1a & 1b. Arcadis presentation re: Baxter Rd Alternative Access & Emergency Readiness
X. 1. Proposed FinCom motion for Article 60 of 2024 ATM re: STRs; Article 60/2024 ATM (Town); Article 61/2024 ATM (Cohen); Article 62/2024 ATM (Kopko)