

Town and County of Nantucket

Select Board • County Commissioners

Brooke Mohr, Chair
Thomas M. Dixon
Matt Fee
Dawn E. Hill Holdgate
Malcolm W. MacNab



16 Broad Street
Nantucket, Massachusetts 02554

Telephone (508) 228-7255
Facsimile (508) 228-7272
www.nantucket-ma.gov

C. Elizabeth Gibson
Town & County Manager

***AGENDA FOR THE MEETING OF THE
COUNTY COMMISSIONERS
SEPTEMBER 25, 2024 - 5:30 PM
PSF COMMUNITY ROOM, 4 FAIRGROUNDS ROAD
AND REMOTE PARTICIPATION VIA ZOOM WEBINAR
NANTUCKET, MASSACHUSETTS***

YOU TUBE LINK FOR VIEWING ONLY:
<https://youtube.com/live/VGuh-EXPIgE>

ZOOM WEBINAR REGISTRATION LINK TO VIRTUALLY ATTEND MEETING:
https://us06web.zoom.us/webinar/register/WN_GQCEcVpzSRGFOPlh7q1edA

- I. CALL TO ORDER***
- II. ANNOUNCEMENTS***
 1. The County Commission Meeting is Being Audio/Video Recorded.
- III. PUBLIC COMMENT****
- IV. NEW BUSINESS****
- V. APPROVAL OF MINUTES AND WARRANTS***
 1. Approval of Minutes of June 26, 2024 at 5:30 PM.
 2. Approval of Payroll and Treasury Warrants for July, August and September 2024.
- VI. OFFICIAL BUSINESS/CITIZEN REQUESTS***
 1. Follow-up on Article 76 of 2024 Annual Town Meeting (Request for Town Assistance with Evictions - "Housing Court".)
- VII. COMMISSIONERS REPORTS/COMMENTS***
- VIII. ADJOURNMENT***

****Identified on Agenda Protocol Sheet.***



AGENDA PROTOCOL

For all Town of Nantucket Boards, Committees, Commissions, Work Groups, Councils and Trusts
(herein collectively referred to as "Committees" in this document)

Roberts Rules: Town of Nantucket Committees follows Roberts Rules of Order to govern its meetings as per the Town Code Charter.

Public Comment: Public Comment is to bring matters of public interest to the attention of the Committees. At the Committee's discretion, matters raised under Public Comment may be directed to Town Administration and/or appropriate departmental staff, or may be placed on a future agenda, allowing all viewpoints to be represented before the Committee takes action, if any. Except in emergencies, the Committee will not normally take any other action on Public Comment in its sole discretion.

To facilitate that any individual who wishes to provide Public Comment has the opportunity and to ensure the ability of the Committee to conduct its business in an orderly fashion, the following rules and procedures are adopted consistent with the United States Constitution and the Massachusetts Declaration of Rights.

The agenda for regular Committee meetings will include a Public Comment period at the beginning of the meeting unless there is more urgent business for the Committee to take up first. This time is reserved for speakers to address the Committee on matters that are not related to any other Agenda item. If a speaker wishes to address the Committee on a matter that is related to another Agenda item, the Chair will accept public comment when that Agenda item is reached during the meeting.

All speakers are encouraged to present their remarks in an orderly and peaceable manner, without disruption to other speakers.

All remarks will be addressed through the Chair of the meeting.

The Chair of the meeting may not interrupt speakers who have been recognized to speak, except that the Chair reserves the right to terminate speech which is not protected under the United States Constitution and the Massachusetts Declaration of

Rights because it constitutes true threats, incitement to imminent lawless conduct, or engages in conduct that disrupts other speakers.

Each speaker may not exceed three (3) minutes during any Public Comment portion of the meeting.

Disclaimer: Public Comment is not a time for debate or response to comments by the Committee. Comments made during the Public Comment period do not reflect the views or positions of the Committee. Because of free speech principles, the Committee does not have authority to prevent all speech that may be upsetting and/or offensive made during the Public Comment period.

Unanticipated Business: Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting may be brought up for discussion in accordance with the Open Meeting Law.

Public Participation: The Committee welcomes valuable input from the public at appropriate times during the meeting with recognition from the Chair at their sole discretion. For appropriate agenda items, the Chair will introduce the item and take public input. Individual Committee Members may have questions on the clarity of the information presented. The Committee will hear any staff input and then deliberate on a course of action.

Committee Report and Comment: Individual Committee Members may have matters to bring to the attention of the Committee during a meeting. If the matter contemplates action by the Committee, Committee Members will consult with the Chair and/or appropriate Town officials or employees in advance and provide any needed information by applicable Committee deadlines and/or schedule the matter for a future Committee meeting. Otherwise, except in emergencies, the Committee will not normally take action on Committee Comment.

Approved: March 27, 2024

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C. Elizabeth Gibson
Town & County Manager

May 20, 2024

Senator Julian Cyr
State House Room 405
24 Beacon St.
Boston, MA 02133

Representative Dylan Fernandes
State House Room 437
24 Beacon St.
Boston, MA 02133

Re: Request of 2024 Annual Town Meeting

Gentlemen:

At Nantucket's May 7, 2024 Annual Town Meeting, a non-binding citizen sponsored article was taken up and voted on as indicated by the attached motion. We have also included a copy of the warrant article itself. Would you please advise what it would take to convene a Housing Court in Nantucket County? We look forward to hearing from you, thank you.

Sincerely,

A handwritten signature in dark ink, appearing to read "Malcolm MacNab", with a long horizontal flourish extending to the right.

Malcolm MacNab MD, PhD
Chair, Nantucket County Commissioners

Cc: Town Counsel
County Commissioners
Clifford Williams

ARTICLE

(Request for Town Assistance with Evictions)

To see if the Town will vote to authorize the Select Board to aid individual home owner that have rented for less than fair market value and then have the tenant squat in the property once the owner starts the eviction process.

(Clifford Williams, et al)

ARTICLE 76
(Request for Town Assistance with
Evictions)
Motion

Moved that the Select Board be authorized to aid individual homeowners that have rented for less than fair market value and then have the tenant squat in the property once the owner starts the eviction process by investigating the possibility of having a Housing Court on Nantucket or requesting the County Commissioners to write a letter to the Legislative Delegation to inquire about the possibility of a Housing Court on Nantucket for example.

From: [Town Manager](#)
To: [Libby Gibson](#)
Subject: FW: Nantucket Housing Court
Date: Tuesday, September 10, 2024 3:13:26 PM

*Town Administration Staff
On behalf of Town Manager
Town of Nantucket
16 Broad Street
Nantucket, MA 02554
508-228-7255*

This electronic message and any attached files contain information from the Town of Nantucket that may be privileged and/or confidential. The information is intended for the recipient named above, and use by any other person is not authorized. If you are not the intended recipient, any disclosure, distribution, copying, or use of this information is strictly prohibited. If you have received this message in error, please notify the sender by e-mail immediately. Also, please be advised that the Secretary of State's office has determined that most e-mails sent to and from municipal officials are considered to be public records and consequently may be subject to public disclosure.

From: Mofsen, Charity (HOU) <charitygrace.mofsen@mahouse.gov>
Sent: Tuesday, September 10, 2024 2:59 PM
To: Town Manager <townmanager@nantucket-ma.gov>
Cc: Holcomb, Michael (SEN) <Michael.Holcomb@masenate.gov>
Subject: Re: Nantucket Housing Court

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Katie,

Thank you for following up on this—it has been a bit of a challenge to get an answer for you, but we actually heard back yesterday afternoon. The short answer is legislation can be drafted for the Housing Court to hold session at the existing Nantucket Courthouse.

Let us know how you would like to move forward.

All the best,

Charity Grace

Charity Grace Mofsen, Legislative Liaison for Nantucket
Representative Dylan Fernandes
(508) 289-1096

From: Town Manager <townmanager@nantucket-ma.gov>

Sent: Tuesday, September 10, 2024 9:25 AM

To: Fernandes, Dylan - Rep. (HOU) <Dylan.Fernandes@mahouse.gov>; Mofsen, Charity (HOU) <charitygrace.mofsen@mahouse.gov>; Cyr, Julian (SEN) <Julian.Cyr@masenate.gov>; Ganz, Elizabeth (SEN) <elizabeth.ganz@masenate.gov>

Subject: FW: Nantucket Housing Court

Good morning,

What is the status of the attached letter, please?

We look forward to hearing from you on this matter.

Best,

Katie

*Town Administration Staff
On behalf of Town Manager
Town of Nantucket
16 Broad Street
Nantucket, MA 02554
508-228-7255*

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From: Town Manager

Sent: Tuesday, May 21, 2024 3:29 PM

To: Fernandes, Dylan - Rep. (HOU) <Dylan.Fernandes@mahouse.gov>; Cyr, Julian (SEN) <Julian.Cyr@masenate.gov>; Mofsen, Charity (HOU) <charitygrace.mofsen@mahouse.gov>

Cc: 'cliffack@yahoo.com' <cliffack@yahoo.com>

Subject: Nantucket Housing Court

Good Afternoon,

Please see attached letter with attachments.

Best,

Katie

*Town Administration Staff
On behalf of Town Manager*

*Town of Nantucket
16 Broad Street
Nantucket, MA 02554
508-228-7255*

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TO: Nantucket Select Board
CC: Libby C. Gibson, Town Manager
FROM: John W. Giorgio, Esq, KP-Law, P.C., Town Counsel
RE: **Southeast Housing Court**
DATE: September 24, 2024

At the 2024 Annual Town Meeting, pursuant to a citizen warrant article, Town Meeting voted to ask the County Commissioners to investigate the possibility of having a Housing Court on Nantucket. To that end, the County Commissioners sent a letter on May 20, 2024 to the Town’s legislative delegation requesting information on what would be required to have a Housing Court session on Nantucket.

You have asked me to provide a general description of the Housing Court including what types of cases can be heard in Housing Court. You have also asked me to describe the legal process for accomplishing this goal.

The Town of Nantucket is one of the municipalities that is served by the Southeast Housing Court (“SEHC”), which is a division of the Massachusetts Trial court. The following is a general description and overview of the of the SEHC taken from the Trial Court Website:

The Southeast Housing Court (SEHC) is a department of the Massachusetts Trial Court, which was established by Section 2 of Chapter 755 of the Acts of 1987 and approved January 14, 1988. Section 78 of Chapter 47 of the Acts of 2017 established that SEHC no longer had jurisdiction over Abington, Bridgewater, Brockton, East Bridgewater, West Bridgewater, and Whitman, effective July 1, 2017. However, SEHC continued to hear cases that originated in these communities through August 13, 2018, as part of the communities’ transition to the Metro South Housing Court.

According to the state Housing Court’s website,

The Housing Court Department has jurisdiction over civil and criminal actions, including equitable relief, which involve the health, safety, or welfare of the occupants or owners of residential housing. The Court hears summary process (eviction) cases, small claims cases, and civil actions involving personal injury, property damage, breach of contract, discrimination, and other claims. The Housing Court also hears code enforcement actions and appeals of local zoning board decisions that affect residential housing. The Housing Court has 15 judges authorized to serve its 6 divisions—Central, Eastern, Northeast, Southeast, Western, and Metro South—and conducts sessions in over 20 locations every week.

SEHC covers the geographic area represented by Barnstable, Bristol, Dukes, Nantucket, and Plymouth Counties, which encompasses 107 cities and towns.

SEHC holds court sessions at its main administrative office at 289 Rock Street in Fall River. In addition to this office, SEHC holds additional court sessions in New Bedford, Taunton, Plymouth, and Barnstable. Because of staffing limitations, SEHC instituted a rolling schedule under which different court locations are open on different days. Currently, the New Bedford location is open on Monday, Thursday, and Friday; the Fall River location on Monday through Thursday; the Taunton location on Tuesday; the Plymouth location on Monday, Wednesday, and Friday; and the Barnstable location on Wednesday. SEHC has 28 employees, who work at the different court locations based on this rolling schedule.

The SEHC has concomitant jurisdiction to hear zoning enforcement cases as well as the state sanitary code, and the housing code, as well as zoning appeals. The Court's jurisdiction is limited to disputes involving residential housing. As indicated, the SEHC physically holds court sessions at the Barnstable Courthouse every Wednesday. The Town, through Town Counsel, has filed at least one case in the SEHC involving a code enforcement matter. Given the proximity of Nantucket Superior Court, however, many times private parties bring zoning appeal in Nantucket Superior Court, which has jurisdiction to hear the same types of cases as the Housing Court.

In Town Counsel's experience, we have found the Housing Court to be a good venue for the Town's enforcement cases because the judges and court personnel tend to be very knowledgeable about housing matters and because the SEHC has full time housing specialists on staff to assist the litigants. Furthermore, we have not found it particularly burdensome to practice in the SEHC because the court offers the option of e-filing pleading and, of course, we can schedule hearings for any Wednesday when a Housing Court judge is physically present in Barnstable. I certainly understand, however, the convenience factor that would be afforded to private litigants if the Housing Court held sessions in Nantucket.

In my opinion, in order to require that the SEHC hold sessions in Nantucket, an amendment to the court's enabling legislation would likely be necessary absent some administrative action taken by the court. The prospect of passage of special legislation requiring the SEHC to hold sessions in Nantucket given the budgetary issues facing the Trial Court system as well as the impact such a change may have on other municipalities within the Court's jurisdiction that might also seek such special consideration.

While the vote under Article 76 of the 2014 Annual Town Meeting was not formally styled as a Home Rule Petition, the Town could attempt to use that vote as the equivalent and thereby formally seek the Town's legislative delegation to file such a bill on behalf of the Town and the County. It might be prudent, however, for the Town to meet with the appropriate court personnel to request support for such legislation in advance.