Town and County of Nantucket
Select Board • County Commissioners

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

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
SELECT BOARD
MAY 15, 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/UNRsHJsT6II

ZOOM WEBINAR REGISTRATION LINK TO VIRTUALLY ATTEND MEETING:
https://us06web.zoom.us/webinar/register/WN_suNbn6iNSauulfGfUmFrcA

I. CALL TO ORDER

II. SELECT BOARD ACCEPTANCE OF AGENDA

III. ANNOUNCEMENTS

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

2. Announce Applications Received for Planning Board Vacancy; Appointment to be Made at May 22, 2024 Select Board Meeting.

3. 2024 Annual Committee/Board/Commission Vacancies.

4. Annual Town Election Scheduled for Tuesday, May 21, 2024 from 7:00 AM to 8:00 PM at Nantucket Hight School, 10 Surfside Road.

5. Select Board Announcements/Comments.

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

1. Executive Session Meeting Posting Protocols Resulting from Recent Open Meeting Law Complaints and May 1, 2024 Public Comment.

*V. PUBLIC COMMENT**

*VI. NEW BUSINESS**

VII. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

1. Approval of Minutes of May 1, 2024 at 5:30 PM; May 2, 2024 at 9:00 AM; May 9, 2024 at 9:00 AM.

2. Approval of Payroll Warrants for May 12, 2024.

3. Approval of Treasury Warrants for May 8, 2024; May 15, 2024.

4. Approval of Pending Contracts for May 15, 2024 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference.

VIII. CITIZEN/DEPARTMENTAL/COMMITTEE REQUESTS/REPORTS

1. Siasconset Beach Preservation Fund (SBPF): Update on Notice of Intent Application before Conservation Commission for Sconset Bluff Erosion Control Project (Tabled from May 1, 2024).

2. Conservation Commission: Request for Approval of Special Counsel Contract (Tabled from May 1, 2024).

3. Housing Office: Review of Year-Round Deed Restriction Pilot Program; Request for Authorization for Affordable Housing Trust to Fund Program up to $2,000,000.

4. 21 Sheep Pond Road Property Owners: Request to Extinguish Betterment due to Erosion.

5. Finance Department: Review of FY 2023 Annual Comprehensive Financial Report (ACFR) (Financial Audit).

IX. TOWN MANAGER'S REPORT

1. Monthly Departmental Report: Finance Department.

2. Select Board Strategic Plan Update: Environmental Leadership Focus Area.

X. SELECT BOARD'S REPORTS/COMMENT

1. Review/Vote on Proposed Draft Timeline for Fall Special Town Meeting/ Discussion of Potential Articles.

2. Committee Reports.

XI. 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

Select Board
Planning Board Vacancy Appointment Timeline
As of 4/3/2024

April 4 – Advertise Planning Board vacancy on Town's website

April 10 – Planning Board vacancy to be added to Select Board agendas as announcement

April 11 and April 18 – Advertise Planning Board vacancy in the Inky

April 26 at 12:00 PM – Deadline for submitting applications for Planning Board vacancy

May 1 and May 15 – The names of applicants who have submitted applications will be read aloud and applications will be included in the Board's packet.

May 22 – Meeting for applicants to introduce themselves and review their applications; Planning Board appointment made jointly by Select Board and remaining Planning Board members.

Procedure to fill a Planning Board (elected seat) vacancy

1. Pursuant to MGL Ch. 41, s. 81A, the "unexpired term shall be filled by appointment by the [Select Board] and the remainder members of the Planning Board until the next annual election, at which time, such office shall be filled, by election, for the reminder of the unexpired term."

2. The Planning Board vacancy is to be advertised for two weeks and the Select Board's intent to fill the vacancy will be noted on its regular meeting agenda for two weeks prior to the date of appointment and applications will be included in the agenda packet material.

3. The Planning Office will forward all applications for the vacancy to Town Administration as soon as they are received.

4. The remaining members of the Planning Board will join the Select Board at a regularly scheduled meeting and will vote to make the appointment to fill the vacancy through the next annual election.

Print

PART I ADMINISTRATION OF THE GOVERNMENT
TITLE VII CITIES, TOWNS AND DISTRICTS
CHAPTER 41 OFFICERS AND EMPLOYEES OF CITIES, TOWNS AND DISTRICTS
Section 81A Planning board; establishment; membership; tenure; vacancies

Section 81A. Any city except Boston, and, except as hereinafter provided, any town may at any time establish a planning board hereunder. Every town not having any planning board shall, upon attaining a population of ten thousand, so establish a planning board under this section. A planning board established hereunder shall consist of not less than five nor more than nine members. Such members shall in cities be appointed by the mayor, subject to confirmation by the city council and in towns be elected at the annual town meeting or be appointed in such manner as an annual town meeting may determine; provided, that a town which has a planning board established under section seventy may, at an annual town meeting or at a special town meeting called for the purpose, vote to establish a planning board under this section and may provide that the members of the planning board then in office shall serve as members of the planning board under this section until the next annual town meeting. When a planning board is first established or when the terms of members of the planning board established under section seventy serving as members of the planning board under this section expire, as the case may be, the members of the planning board under this section shall be elected or appointed for terms of such length and so arranged that the term of at least one member will expire each year, and their successors shall be elected or appointed for terms of three or five years each as determined by the city council in the case of a city and by the town meeting in the case of a town. Any member of a board so established in a city may be removed for cause, after a public hearing, by the mayor, with the approval of the city council. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term, in a city, in the same manner as an original appointment, and, in a town, if the members of the board are appointed, in the same manner as the original appointment. If the members of a planning board are elected, any unexpired term shall be filled by appointment by the board of selectmen and the remainder of the members of the planning board until the next annual election, at which time, such office shall be filled, by election, for the remainder of the unexpired term. All appointments pursuant to this section shall be in the manner provided in section eleven. Such a board shall elect annually a chairman and a clerk from among its own number, and may employ experts and clerical and other assistants. It may appoint a custodian of its plan and records, who may be the city engineer or town clerk. No member of a planning board shall represent before such board any party of interest in any matter pending before it.

Towns of less than ten thousand inhabitants, having no planning board established under this section may, by vote of the town meeting, authorize the board of selectmen to act as a planning board under this section until such a board is established; provided, that any such town, upon attaining a population of ten thousand, shall establish a planning board hereunder.

Planning Board (5-yr terms)		
Dave Iverson	Chair	2024
Joseph Topham	Vice Chair	2028
Barry G. Rector		2025
~~John F. Trudel III~~ VACANT		2026
Nathaniel Lowell		2027

Planning Board Alternates (3-yr terms)		
John Kitchener	Alternate	2024
Abby De Molina	Alternate	2025
Stephen Welch	Alternate	2026

Applicants:

John Kitchener
Hillary Hedges Rayport

RECEIVED

APR 16 2024

NANTUCKET TOWN ADMINISTRATION

TOWN OF NANTUCKET
COMMITTEE INTEREST FORM/NEW APPLICANT

For Appointment by the Select Board

Please return this form to the Town Administration offices by the advertised due date.
Please call for date of the Public Hearing for applications review or refer to the Public Notice.

Name: John Kitchener **Home Phone:** 917-825-4155

Mailing Address: 27 Monomoy Road, Nantucket **Alternate Phone:**

Email Address: Kitchenerj@icloud.com **Date Submitted:** April 15th 2024

REQUESTING APPOINTMENT TO:
Planning Board Member (Replace John Trudel)

Reasons for Committee Interest

- Have you ever attended a meeting of the committee/board/commission?
- Why are you interested in this committee/board/commission?
- Are you prepared to commit to the meeting schedule of the committee/board/commission?

Since being appointed as a Planning Board Alternate member in September 2023 I have attended every regular and special Planning Board meeting. As a Voting Member of the Short Term Rental Workgroup over a one year period I attended every meeting except one (approximately 40 meetings). I commit to continue working with the Planning Board meeting schedule.

I believe the Planning Board has a critical role to play in achieving the right balance between more development and the need to maintain a sustainable level of land use on our island. As an Alternate Member I have enjoyed being part of that process. I am not an architect or a member of our real estate / construction industries. But I am reasonably intelligent and able to ask insightful questions that help get to the best solutions.

An important Planning Board role is to ensure all applications are evaluated against our State and local planning and zoning bylaws. This is not easy and demands that all Board members understand and make their decisions within the boundaries of the bylaws. Over the past eight months I have learned a lot from studying the bylaws and from watching/listening to the five Board members at our monthly meetings.

Relevant Experience

- What experience, skills or insight would you bring to the committee/board/commission?
- What would you hope to accomplish on the committee/board/commission?

Attached is a resume of my business and public service experience and skills. I have learned how to adapt my business skills to the world of public service. My STR Workgroup and Planning Board Alternate experience has taught me a lot about effective public service, especially in the area of Open Meeting regulations.

Potential Conflicts of Interest

- Please list any committees appointed by the Select Board, local agencies or non-profit organizations of which you or a member of your immediate family are current members.
  Planning Board Alternate Member

- Are you or any member of your family employed by, or receive any financial consideration from, the Town of Nantucket?
  No.

JOHN KITCHENER – 2024 PLANNING BOARD APPLICATION

NANTUCKET PUBLIC SERVICE

CURRENT: Planning Board Alternate Member.

2022 / 2023: Short Term Rental Workgroup - At Large Voting Member.

2019 – 2022: Monomoy Civic Association – Executive Board Member.

My time on the STR Workgroup and as an Alternate member of the Planning Board has given me a good insight into how public service works. By necessity it is very different to the private sector. Last year I participated in the State-run Open Meeting Webinar. This proved to be a very valuable experience that has helped me on the Planning Board.

I have attended every Planning Board meeting since I was made an Alternate Member in September 2023. I look at the last eight months as an apprenticeship towards becoming a full member of the Board. I have learned a lot from the five full Board members.

FOUNDER NANTUCKET PROPERTY WATCH – PROPERTY MANAGEMENT COMPANY.

2018: Founded a Nantucket property management company with a young Macedonian partner.

2021: Handed the business over to my partner to focus on public service opportunities on the island.

FOUNDER & CEO EUROPEAN GREENFIELD STARTUP

2008: With two business partners, founded (and funded) Tatra Spring, a green field startup in Poland. Tatra Spring is a cosmetics contract manufacturing company focused on serving Europe, Middle East & Africa markets.

As CEO led the venture from a startup company with no facility, no people and no customers to an important supply chain partner for brands that include Estee Lauder, Avon and Body Shop.

2015: Sold the company to one of Europe's largest cosmetic contract manufacturers.

FOUNDER & PRESIDENT GLOBAL SUPPLY CHAIN CONSULTING

2006: Successfully launched a global supply chain consulting company working mainly with clients owned by leading investment banking firms.

After selling Tatra Spring returned to consulting. Worked with the Board of a major nutritional supplements company based in Dallas. Led a global supply chain transformation initiative, took on role of Chief of Staff to the CEO and led a redesign of the company global operating model.

SENIOR CORPORATE SUPPLY CHAIN LEADER

Until leaving in 2006 served as Avon Products (Fortune 500 company) most senior supply chain executive and a member of the corporate senior management team. Global supply chain leadership and oversight responsibility for multi-year global process and technology transformation initiative.

Lived and worked in Asia, Europe and North America. Skill set includes issue diagnosis, supply chain transformation, change management, effective communication at all levels, people development and an aggressive focus on tangible results.

Developed the people, processes and physical infrastructure needed to open key markets that included China, India, Russia, Poland, Turkey and Colombia. The ability to quickly and cost effectively enter new markets was a key driver of Avon's mid 90's – 2008 revenue, market share and margin growth.

TEACHING OTHERS

2015: Assisted the Jon M. Huntsman Business School (USU) to develop a business case module for their one-year MBA program. Included developing the problem, hosting the class for a visit to Tatra Spring Poland, remote Q&A, participating in a two-day interactive session on site at the University in Logan, Utah.

Born and educated in the UK. Now an American citizen residing permanently in the USA.

JOHN KITCHENER
917 825 4155
kitchenerj@icloud.com

Erika Mooney

From: William Saad
Sent: Friday, April 26, 2024 12:14 PM
To: Erika Mooney
Subject: FW: Planning Board appointment interest

We have one more applicant, see below.

Best,

Billy Saad
Zoning Administrator/Land Use Specialist

wsaad@nantucket-ma.gov
Town of Nantucket
Planning & Land Use Services
2 Fairgrounds Road
Nantucket, MA 02554

Tel: 508-325-7587 X 7071
Fax: 508-325-5346
www.nantucket-ma.gov

Town & County of
NANTUCKET, MA

From: Hillary Hedges Rayport <hrayport@mac.com>
Sent: Friday, April 26, 2024 11:54 AM
To: William Saad <wsaad@nantucket-ma.gov>
Subject: Planning Board appointment interest

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.

Dear Billy,

Please accept this email as my application for the vacant seat on the Planning Board.

I've been attending or listening to most of the planning board meetings and the NP&EDC meetings for some years now. I've also shown my interest and qualifications by attending several citizen planner training classes that are offered by the official training body of the Commonwealth, the CPTC. I have qualifications in preservation planning and have done a lot of research on the history of planning and zoning on Nantucket.

I believe the role of a Planning Board member is to review applications and determine, with advice of staff and deliberation with applications and residents, if they follow the local and state laws. Planning Board members also have an important role planning for orderly development of Nantucket and keeping neighborhoods benefiting residents, while also planning intelligently for positive change. With the current planning cycle underway, I believe I would bring a great deal of care, attention, knowledge, and diversity of thought to the Planning Board over the next year.

Thank you for your assistance, and thanks in advance to the members of the Select Board and Planning Board for reviewing my application.

Kind Regards,
Hillary Hedges Rayport
617-697-6429

TOWN OF NANTUCKET
COMMITTEE INTEREST FORM/NEW APPLICANT

For Appointment by the Select Board

Please return this form to the Town Administration offices by the advertised due date.
Please call for date of the Public Hearing for applications review or refer to the Public Notice.

Name: Hillary Hedges Rayport *Home Phone:* 617 697 6429

Mailing Address: 89 Main Street, Nantucket, MA 02554 *Alternate Phone:*

Email Address: hrayport@mac.com *Date Submitted:*

REQUESTING APPOINTMENT TO: Planning Board

Reasons for Committee Interest

- Have you ever attended a meeting of the committee/board/commission?
- Why are you interested in this committee/board/commission?
- Are you prepared to commit to the meeting schedule of the committee/board/commission?

- Yes
- I'm interested in planning for the future of Nantucket, and participating in fair review and evaluation of applications.
- Yes

Relevant Experience

- What experience, skills or insight would you bring to the committee/board/commission?
- What would you hope to accomplish on the committee/board/commission?

I have specific skills and training in Preservation Planning. I'm a good communicator and skilled at analytic reasoning. I have many connections in the community and government. I am volunteering out of care for the community and Nantucket. I am not a developer or agent.

I would hope to advocate for sustainable growth and healthy communities. I would also hope to build trust and confidence in government.

Potential Conflicts of Interest

- Please list any committees appointed by the Select Board, local agencies or non-profit organizations of which you or a member of your immediate family are current members.

  I'm a director of a preservation non profit which is currently inactive.
  I continue to advise a Community Fund for Preservation, which has an educational mission.

- Are you or any member of your family employed by, or receive any financial consideration from, the Town of Nantucket?

  No.

Hillary Hedges Rayport

Hillary is an investor, manager, and board member with a strong interest and skills in historic preservation and community planning. A firm believer in the power of compassion, inquiry and finding common ground, Hillary believes that a shared vision for the future begins with an understanding and appreciation for the past. Her continuing education and civil service has focused on how rehabilitation and stewarding historic resources makes communities strong and healthy places to live.

Research and Papers
Copying Perfection: Analysis and Inspiration for Subdivisions on Nantucket
Preserving Historic Pavement on Nantucket: Information and Guidelines
Roundabouts With Nantucket in Mind
Report for the Town on Harbor Place/Wilkes Square Redevelopment
A Cobblestone Gathers No Moss: A History of Nantucket's Cobble Paving
Little Gray Island: Life Stories From Nantucket

Citizen Planner Training Collaborative Courses Completed
Zoning with Overlay Districts
Creating Master Plans
Vested Rights and Non-Conforming Structures and Uses

Recent graduate level courses relevant to community planning, historic preservation, and architectural history

Preservation Planning How historic properties are surveyed, registered, and protected; how historic properties contribute to sustainable and livable communities; history of the preservation movement and associated legal frameworks.

Architectural History and Community Workshop Training in interdisciplinary research skills necessary to build site-specific narratives. These narratives are used for understanding, protecting and rehabilitating historic resources in context with their communities.

Histories of Modern Architecture A reading seminar in historiography of modern architecture

Historic Preservation Theory and Practice Concepts and methods of historic theory and practice; how these theories underpin historic preservation laws and evolving policy; intersection of historic preservation with environmental sustainability and social equity.

Geographic Information Systems Introduction to methods of data capture and sources of data, nature and characteristics of spatial data and objects, data structures, modeling surfaces, volumes and time, and data uncertainty. Laboratory exercises included.

Transportation, Cars, and Community in the Modern World Advanced reading seminar in histories of mobility and multi-mobile transport, globally.

American Cultural Landscape Studies Seminar on analyzing and interpreting the American landscape.

HILLARY HEDGES RAYPORT
hrayport@mac.com
(617) 697-6429

247 Commonwealth Ave.
Boston, MA 02116

89 Main Street
Nantucket, MA 02554

Experience

7/19 – 6/22 **NANTUCKET HISTORICAL COMMISSION** **NANTUCKET, MA**

Chair

- Revived inactive commission and recruited applicants for appointment as commissioners by Select Board in 2019. Designated a Certified Local Government.
- Worked with staff and other boards to initiate a state-funded update to the island-wide survey of historic resources.
- Advocated successfully for the preservation of Town's historic cobblestone streetscape.

1/16 – 01/18 **EF EDUCATION FIRST** **CAMBRIDGE, MA**

A global education, language, and travel company.

Internal Consultant to the Educational Tours Executive Team

- Consulting projects included tech leadership, organizational structure and management, and corporate philanthropy.

6/06 – 2/11 **CAMBRIDGE ASSOCIATES** **BOSTON, MA**

A global investment consulting firm working with cultural institutions, endowments, and family offices.

Senior Consultant

- Advised investment committees of major cultural institutions, schools, and family offices with investment portfolios ranging from $80 million to $550 million.
- Planned, implemented, and monitored investment programs comprised of public and private equities.
- Expanded firm revenue and selected to successfully salvage an at-risk account.

1/02 – 5/04 **CYTEL SOFTWARE CORPORATION** **CAMBRIDGE, MA**

Privately-held firm providing statistical software and clinical trial design to the life-science industry. Company sold to New Mountain Capital.

Vice President

- Repositioned strategic focus of the company. Led new emphasis on delivering software, services, and systems for efficient clinical trials.
- Developed strategic revenue accounts with three of the top ten pharmaceutical companies. Closed largest transactions in company history.
- Sourced venture capital financing.
- Initiated and oversaw internal activities such as office space renegotiation and renovation, marketing materials update, and financial planning.

1999-2001 **ARTS ALLIANCE** **NEW YORK, NY; LONDON, UK**

Venture Capital firm investing in seed and early stage new media companies.

Principal

- Responsible for deal generation, negotiation, due diligence, and investment management.
- Served as Director on the board of two portfolio companies.

1993-1997 **GEOCAPITAL PARTNERS** **FORT LEE, NJ**

Venture Capital firm focused on investing in emerging growth information technology companies.

Principal. Promoted to Principal in 1997

- Presented, negotiated with, and completed investments in seven technology companies. Exits included four sales and one IPO.
- Youngest person promoted to Principal in firm.

Senior Associate. Promoted to Senior Associate from Associate in 1995.

- Sourced and evaluated investment opportunities in over 2,000 IT companies.

Education

Present **BOSTON UNIVERSITY** **BOSTON, MA**

Candidate for Masters in Preservation Studies. GPA 3.91

1997-1999 **HARVARD UNIVERSITY GRADUATE SCHOOL OF BUSINESS ADMINISTRATION** **BOSTON, MA**

MBA June 1999. Summer internship in Marketing at **Adobe Systems Inc.**, San Jose, CA. Co-Founder, HBS Motorcycling Club.

1989-1993 **PRINCETON UNIVERSITY** **PRINCETON, NJ**

Bachelor of Arts in English, June 1993. *Cum Laude*. GPA 3.7 Senior thesis: Herman Melville's *Typee* and *Moby Dick*. Grade: 4.0

Non Profit/ Personal

Trustee, **The Massachusetts Historical Society**. Member, Chairman's Council, **The Trustees of Reservations**. Past Director and Trustee positions: **The Nantucket Atheneum**; **The Boston Public Market**; **The Trustees of Reservations**; **GrubStreet**. Launched and produced *The Memoir Project: Nantucket* to collect and publish stories of long-time island residents. Published *Little Grey Island; Life Stories From Nantucket.* Authored article: *A Cobblestone Gathers No Moss; a history of stone paving on Nantucket*. Married to Jeffrey F. Rayport and mother of two boys.

HILLARY HEDGES RAYPORT
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Select Board
2024 Committee Appointments Timeline
As of 4/11/2024

April 10 – Select Board review list of openings.

April 11 – Notify members of committees whose terms are expiring.

April 18, April 25, May 2 and May 9 – Advertise committee openings in newspaper and on Town's website; put on Select Board agenda as announcement starting May 1 (no meetings April 17 or April 24).

May 17 at 12:00 PM – Deadline for submitting applications for committee openings to Town Administration office. This includes applications for:

- Agricultural Commission
- Airport Commission
- Board of Health
- Capital Program Committee
- Cemetery Commission
- Coastal Resiliency Advisory Committee
- Conservation Commission
- Contract Review Committee, Human Services
- Council for Human Services
- Council on Aging
- Cultural Council
- Finance Committee
- Historic District Commission Associate
- Nantucket Affordable Housing Trust
- Nantucket Historical Commission
- Planning Board Alternate
- Real Estate Assessment Committee
- Roads and Right-of-Way Committee
- Scholarship Committee
- Tree Advisory Committee
- Zoning Board of Appeals
- Zoning Board of Appeals Alternate

May 22 – The names of applicants who have submitted applications will be read aloud and applications will be included in the Board's packet.

June 5 – Meeting for the applicants who applied to the following committees to introduce themselves and review their applications:

- Agricultural Commission
- Airport Commission
- Board of Health
- Capital Program Committee

- Cemetery Commission
- Coastal Resiliency Advisory Committee
- Conservation Commission
- Contract Review Committee, Human Services
- Council for Human Services
- Council on Aging
- Cultural Council

June 12 – Meeting for the applicants who applied to the following committees to introduce themselves and review their applications:

- Finance Committee
- Historic District Commission Associate
- Nantucket Affordable Housing Trust
- Nantucket Historical Commission
- Planning Board Alternate
- Real Estate Assessment Committee
- Roads and Right-of-Way Committee
- Scholarship Committee
- Tree Advisory Committee
- Zoning Board of Appeals
- Zoning Board of Appeals Alternate

June 26 – Committee appointments.

2024 Committee Openings Information
As of 4/26/2024

Committee	# seats open	Term Expiration	Notes
Agricultural Commission	1	2027	
Airport Commission	2	2027	
Board of Health	1	2027	
Capital Program Committee	1	2027	
Cemetery Commission	2	2027	
Coastal Resiliency Advisory Committee	1	2027	
Conservation Commission	2	2027	
Contract Review Committee, Human Services	1	2027	
Council for Human Services	3	2027	
Council on Aging	1	2026	vacant
Council on Aging	3	2027	
Cultural Council	2	2027	
Finance Committee	3	2027	
Historic District Commission Associate	1	2027	
Nantucket Affordable Housing Trust	2	2026	2-year term, at-large
Nantucket Affordable Housing Trust	1	2026	2-year term; real estate agent/broker
Nantucket Historical Commission	3	2027	
Planning Board Alternate	1	2027	
Real Estate Assessment Committee	1	2026	vacant
Real Estate Assessment Committee	2	2027	
Roads and Right of Way Committee	3	2027	
Scholarship Committee	3	2027	
Tree Advisory Committee	1	2025	vacant
Tree Advisory Committee	1	2027	
Zoning Board of Appeals	1	2029	5-year term
Zoning Board of Appeals Alternate	1	2027	3-year term

May 15, 2024 Select Board Meeting

Public Comment Follow-up Item from May 1, 2024
The comment pertained to an Open Meeting Law violation of the Affordable Housing Trust with respect to executive session and the timely release of meeting minutes. The violation has been resolved pursuant to a determination issued by the Attorney General's Division of Open Government (attached).

Further Town Action:
Given the number of Town boards, committees and commissions and associated meetings which occur on an annual basis (hundreds), the number of confirmed violations is low.* Despite this, zero violations would be best. In working toward a goal of zero, Town Administration has communicated to all of the Town's boards, committees and commissions ("Boards"), the schedule of Open Meeting Law training through the Attorney General's office. We have started tracking attendance at the training sessions to ensure that members are attending the training.

With the Board's endorsement, it is also recommended that prior to posting, the executive session meeting agendas of all Town Boards, must be approved through Town Administration ahead of posting. This will necessitate proper planning by those boards so that sufficient time is allowed for the necessary review.

**Specifically, since 2011 when Open Meeting Law violation determinations were posted on-line by the state, Nantucket has had:*

10 Determinations of Violation
9 Determinations of No Violation

Breakdown (confirmed determinations only):

Affordable Housing Trust	*1*
NP&EDC	*1*
Select Board	*1*
HDC	*4*
School Committee	*1*
Land Bank	*1*
Energy Committee	*1*
Total	*10*

Of the thousands of public meetings that have been held since 2011 (let us say at least 13,000 = approx. 1000/year x 13 years), this equals less than 1 confirmed violation per year. Or, of 13,000 meetings, .0007% were complained about and found to be in violation. To put it in perspective – less than 1%.

It is also worth noting that when Town Administration established a Public Records Access Officer/Open Meeting Law Compliance position in 2019, the position was intended to respond to and process public records requests; and, ensure Town-wide compliance with the provisions of the Open Meeting Law and other committee administration activities (these include meeting postings; ensuring that minutes and agendas are prepared and filed appropriately and timely; meeting space arrangements; inquiries relating to committee member and employee communication, the Committee Handbook; ensuring that all annual training is arranged and attended; and now, there is more oversight and involvement with hybrid meetings). Due to the volume of public records requests, the incumbent in the position spends the vast majority of time processing public records requests with little time available for Open Meeting Law compliance activities. We have added an additional dedicated committee administration position to our list of potential FY 2026 budget items.

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL
ATTORNEY GENERAL

(617) 727-2200
www.mass.gov/ago

April 25, 2024

OML 2024 – 78

Janelle M. Austin, Esq.
KP Law
101 Arch Street
Boston, MA 02110

By email only: jaustin@k-plaw.com

RE: Open Meeting Law Complaint

Dear Attorney Austin:

This office received a complaint from Meghan Glowacki on August 7, 2023, alleging that the Nantucket Affordable Housing Trust (the "Trust") violated the Open Meeting Law, G.L. c. 30A, §§ 18-25. The complaint was originally filed with the Trust on July 12, 2023, and you responded, on behalf of the Trust, by letter dated July 26, 2023. The complaint alleges that the Trust entered executive session for an improper purpose on April 7, 2023, and failed to timely approve open session minutes of meetings held between April 7, 2023, and July 5, 2023.

We appreciate the patience of the parties while we reviewed this matter. Following our review, we find that the Trust violated the Open Meeting Law in the ways alleged. In reaching this determination, we reviewed the original complaint, the Trust's response to the complaint, and the complaint filed with our office requesting further review. In addition, we reviewed the notice and open and executive session minutes of the Trust meeting held on April 7, 2023, a video recording of the April 7, 2023, meeting, and the notices and open session minutes of the Trust meetings held on August 8, 2023, and October 3, 2023.[1] Finally, we spoke with you via telephone on March 8, 2024.

FACTS

We find the facts as follows. The Trust is responsible for providing for the creation and preservation of affordable housing in Nantucket for the benefit of year-round low and moderate

[1] A video recording of the Trust meeting held on April 7, 2023, is available at https://www.youtube.com/watch?v=7XGN1R-_Ue4.

income households who would otherwise have difficulty, financial or otherwise, locating housing on Nantucket. See G.L. c. 44, § 55c.

In April of 2018, Surfside Development ("Surfside") applied to the Nantucket Zoning Board of Appeals (the "Zoning Board") for a comprehensive permit to construct 156 dwelling units - 60 single family homes and 96 condominiums, 25% of which would be designated as affordable units - on a 13-acre site at South Shore Road. Surfside thereafter modified the proposed development to 92 dwelling units, which would include 44 single family homes and 48 condominiums, 25% of which would be designated as affordable units. The Zoning Board conducted public hearings from May 2018 to April 2019, and issued a decision in June 2019, granting a comprehensive permit for the construction of 60 dwelling units - 40 single family homes and 20 condominiums - with numerous (over 150) conditions. Surfside appealed the decision to the Housing Appeals Committee and modified the proposed development again, to 156 condominium units. In September 2022, the Housing Appeals Committee affirmed the Zoning Board's granting of a comprehensive permit but concluded that certain conditions imposed by the Zoning Board rendered the project uneconomic and exceeded the authority of the Board. The Housing Appeals Committee vacated the Zoning Board's decision and directed the Zoning Board to issue an amended comprehensive permit.[2] In October 2022, the Zoning Board filed a complaint in Nantucket Superior Court appealing the Housing Appeals Committee's decision.[3]

On April 5, 2023, at 10:02 A.M., the Trust posted notice for a meeting to be held on April 7, 2023, at 10:30 A.M. via Zoom. The notice included eight topics, one of which was an executive session pursuant to Purpose 6 "To consider the purchase, exchange, lease or value of real property where an open meeting may have a detrimental effect on the negotiating position of the public body."

The April 7, 2023, meeting was held as planned and the Trust convened in open session. After discussing the open session topics, Trust member Brooke Mohr moved to enter into executive session and not to return to open session "for the purpose of discussing the acquisition of Real Estate where an open meeting may have a detrimental effect on the negotiating position of the public body."[4] The Trust then approved a unanimous vote by roll call to convene in executive session. The Trust has released the minutes of the executive session. During the meeting, the Housing Director shared with the Trust that he would be recommending to the Select Board that the Town dismiss the appeal of the Housing Appeals Committee decision involving Surfside. The Housing Director stated this recommendation was based on several

[2] Between Surfside's appeal to the Housing Appeals Committee in July 2019 and the Housing Appeals Committee's decision in September 2022, various interested parties filed motions to intervene and motions to dismiss with the Housing Appeals Committee and filed separate complaints in Superior Court with respect to the housing development project on South Shore Road.

[3] Town of Nantucket Zoning Board of Appeals v. Surfside Crossing, LLC and Massachusetts Housing Appeals Committee, 2275 CV 00027.

[4] We remind the Trust that the Open Meeting Law specifically provides that the chair must state the purpose for executive session. See G.L. c. 30A, § 21(b)(3) ("before the executive session, the chair shall state the purpose for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called[.]"). However, it is permissible for the chair to explicitly delegate the responsibility for making the required statements to another individual. See OML 2016-124.

factors, including that the developers were now publicly stating that they saw the best version of the project as 75% serving year-round residents of Nantucket. The Trust unanimously voted to support the recommendation to dismiss the appeal.

On April 18, 2023, the Select Board and Surfside issued a joint statement advising residents that the parties would "shift away from the appeal of the Housing Appeals Committee decision and move forward in good faith collaboratively" to construct a housing development project on South Shore Road that would be reserved for year-round residents of Nantucket. The objective to reserve units for year-round residents would likely be implemented through long-term deed restrictions established by the Trust. On April 20, 2023, the Zoning Board, Housing Appeals Committee, and Surfside filed a "Stipulation of Dismissal" in Superior Court agreeing to dismiss the complaint filed by the Zoning Board.

The Trust held seven meetings between April 7, 2023, and July 5, 2023. During a meeting held on August 8, 2023, the Trust approved the minutes of the meetings held on April 4, 2023; April 7, 2023; May 3, 2023; June 13, 2023; and June 20, 2023. During a meeting held on October 3, 2023, the Trust approved the minutes of the meetings held on April 25, 2023; May 25, 2023; May 30, 2023; July 25, 2023; August 3, 2023; and August 8, 2023.

DISCUSSION

I. We Find that the Trust's Discussions During the April 7, 2023, Meeting Were Not Appropriate for Executive Session.

The Open Meeting Law was enacted "to eliminate much of the secrecy surrounding deliberations and decisions on which public policy is based." Ghiglione v. School Trust of Southbridge, 376 Mass. 70, 72 (1978). The Open Meeting Law requires that all meetings of a public body be conducted in an open session, unless an executive session is convened. G.L. c. 30A, §§ 20(a)-(b), 21. A public body may enter an executive, or closed, session for any of the ten purposes enumerated in the Open Meeting Law provided that it has first convened in an open session, that a majority of members of the body have voted to go into executive session, that the vote of each member is recorded by roll call and entered into the minutes, and the chair has publicly announced whether the open session will reconvene at the conclusion of the executive session. G.L. c. 30A, §§ 21(a), (b); see also OML 2014-94.[5]

One permissible reason for a public body to convene in executive session is "to consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body." G.L. c. 30A, § 21(a)(6) ("Purpose 6"). Purpose 6, narrowly construed, permits a public body to meet in executive session to protect its negotiating position when seeking to purchase, exchange, or lease real estate, or to discuss the value of real estate where it has a negotiating position relative to that property. See G.L. c. 30A, § 21(a)(6); Allen v. Trust of Selectmen of Belmont, 58 Mass. App. Ct. 715, 719-721 (2003); OML 2019-143; OML 2016-50. When noticing an executive session

[5] Open Meeting Law determinations may be found at the Attorney General's website, https://www.mass.gov/the-open-meeting-law.

pursuant to Purpose 6, a public body must identify the property to be discussed if doing so would not compromise the purpose for which the executive session was called. See OML 2019-101; OML 2013-97; OML 2012-52.

The complaint challenges the propriety of the Trust's discussions in executive session during the meeting held on April 7, 2023. Following our review of the executive session minutes and conversation with town legal counsel, we find that the discussions by the Trust during this executive session meeting were not appropriate under Purpose 6. Purpose 6 is intended to preserve confidentiality in negotiating the value of the property to be purchased, exchanged or leased to avoid putting the public body at a disadvantage in its negotiations for the property. See District Atty. for the Plymouth Dist. v. Trust of Selectmen of Middleborough, 395 Mass. 629, 633 n.5 (1985); OML 2019-10; OML 2016-50. While we understand that the Trust has the authority to impose housing restrictions on the property being developed by Surfside, the discussions during the April 7, 2023, meeting did not relate to the purchase, exchange, lease or value of the property. Rather, the executive session minutes make clear that the discussion related to the decision by the Town to dismiss the appeal filed by the Zoning Board of the Housing Appeals Committee's decision regarding the comprehensive permit for Surfside's housing project. See OML 2020-14; OML 2019-59. We find that the Trust violated the Open Meeting Law by having such discussions in executive session. We remind the Trust that the proper application of Purpose 6 is to protect a public body's negotiating position vis-à-vis other parties to a transaction and not to escape the inconvenience of public scrutiny or opposition. See OML 2022-119; OML 2020-158. Because the Trust has released the minutes of the April 7, 2023, executive session and because it was the Select Board and not the Trust that authorized dismissing the appeal, we order no further remedial action.

II. We Find that the Trust Failed to Timely Approve Open Session Meeting Minutes.

The complaint also alleges that the Trust failed to timely approve minutes for meetings held between April 7, 2023, and July 5, 2023. The Open Meeting Law requires public bodies to create and approve minutes of all open sessions in a timely manner. G.L. c. 30A, § 22(c). "Timely manner" means "within the next three public body meetings or within 30 days, whichever is later, unless the public body can show good cause for further delay." See 940 CMR 29.11; OML 2018-48. Whenever possible, we recommend that minutes of a meeting be approved at the next meeting. See OML 2018-67; OML 2017-133.

We find that the minutes of the seven meetings held between April 7, 2023, and July 5, 2023, which included April 7, 2023; April 25, 2023; May 3, 2023; May 25, 2023; May 30, 2023; June 13, 2023; and June 20, 2023, were not approved in a timely manner where the minutes were not approved within the later of the next three meetings or 30 days following each meeting. See OML 2021-155. In general, staffing shortages of the type that all governmental bodies with limited resources experience, or periodic staff vacancies, do not constitute good cause for failing to approve minutes in a timely manner, as it is the responsibility of the public body and its members to take steps to ensure that staff have adequate assistance to complete the minutes in a timely manner, including having members of the public body assist in the creation of minutes if necessary. See OML 2021-177; OML 2018-105; OML 2015-86. Ultimately, the responsibility

for complying with the Open Meeting Law's requirement that meeting minutes be created and approved in a timely manner rests with public bodies and members of such bodies, not with individual public employees, such as administrative staff. See OML 2018-105. We find that the Trust violated the Open Meeting Law by failing to approve these seven sets of minutes in a timely manner. Although not a replacement for minutes, we note that video recordings of Trust meetings were promptly made available online after each meeting, thus there is no indication that the Trust intended to withhold information from the public. See OML 2022-95. Nevertheless, we remind the Trust that an audio or video recording of a meeting does not constitute minutes, for purposes of the Open Meeting Law because the law requires that meeting minutes include a summary of the discussions on each subject, and a recording is essentially a transcript of the meeting. See G.L. c. 30A, § 22(a) (minutes of all meetings, including executive sessions, must include the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, and the decisions made and the actions taken at each meeting, including the record of all votes).

We take this opportunity to clarify that the Open Meeting Law does not govern the method for approving minutes. Public bodies may choose the method for approving their minutes, including approval by the public body chair or another designee alone, by majority vote of the public body, or by consent of the body (approved unless there is an objection). See OML 2022-85; OML 2019-107; OML 2019-25; OML 2017-34. There is no requirement in the Open Meeting Law that only public body members in attendance at the meeting at issue vote to approve the minutes, nor does a lack of quorum of public body members who were in attendance during prior meetings constitute good cause for delay in approving minutes. See OML 2022-214; OML 2019-25.

Finally, we note that the Open Meeting Law does not require that public bodies post their minutes to a website or that minutes be submitted to the Town Clerk, but rather that meeting minutes be made available within 10 days of a request.[6] See G.L. c. 30A, § 22(c); OML 2020-19; OML 2018-107; OML 2013-103.

CONCLUSION

We find that the Trust violated the Open Meeting Law by discussing an improper topic in executive session under Purpose 6 and by failing to timely approve open session meeting minutes. We order immediate and future compliance with the law's requirements, and we caution that similar future violations could be considered evidence of intent to violate the law. Where the Trust has released the executive session minutes of the April 7, 2023, meeting, we decline to order further remedial action.

[6] The Supervisor of Records within the Office of the Secretary of the Commonwealth has issued regulations under the Public Records Law requiring that a municipal public records access officer, "to the extent feasible, post commonly available public record documents on a website maintained by the municipality." See 950 CMR 32.04(5)(g).

We now consider the complaint addressed by this determination to be resolved. This determination does not address any other complaints that may be pending with our office or the Trust. Please feel free to contact our office at (617) 963-2540 if you have any questions regarding this letter.

Sincerely,

KerryAnne Kilcoyne
Assistant Attorney General
Division of Open Government

cc: Meghan Glowacki – By email only: MPEventing@me.com
Nantucket Affordable Housing Trust c/o Kristie Ferrantella, Housing Director – By email only: kferrantella@nantucket-ma.gov
Nantucket Town Clerk – By email only: townclerk@nantucket-ma.gov

This determination was issued pursuant to G.L. c. 30A, § 23(c). A public body or any member of a body aggrieved by a final order of the Attorney General may obtain judicial review through an action filed in Superior Court pursuant to G.L. c. 30A, § 23(d). The complaint must be filed in Superior Court within twenty-one days of receipt of a final order.

EXHIBIT 1
AGREEMENTS TO BE EXECUTED BY TOWN MANAGER
UNLESS RESOLUTION OF DISAPPROVAL BY SELECT BOARD
May 15, 2024

Type of Agreement/Description	Department	With	Amount	Other Information	Source of Funding	Term
Revenue Agreements						
Memorandum of Understanding (MOU)	Public Works	Bay State Book Company	(.2 cents per lb. of books received)	Book company pays Town per pound of books	N/A	May 1, 2024 - Apr 30, 2025
License Agreement	Town Administration	Sandy Pedals, LLC	($1,500)	For use of bicycle parking spaces in racks at various sites along Nantucket public streets	N/A	May 15, 2024 - Oct 31, 2024
No Funding Agreements						
License Agreement	Town Administration	Nantucket Regional Transit Authority (NRTA)	N/A	Continued use of 10 Washington Street (Greenhound Building)	N/A	Apr 15, 2024 - Apr 14, 2025
Memorandum of Understanding (MOU)	Town Administration, Nantucket Council on Aging & Elder Services of Cape Cod	Senior Nutrition Program	N/A	Kitchen and dining space for the Senior Nutrition Program at the Saltmarsh Center, Mon - Fri	N/A	Apr 19, 2024 - June 30, 2025
Contractual Services						
Subscription Agreement	Town Administration/ Communications	Artlist Ltd.	$4,800	Usage rights to songs, sound effects, clips, footage, animation, 3D & video templates for public outreach purposes	Town Administration Budget	May 2, 2024 - May 1, 2025
Professional Services Agreement	Health & Human Services	Commonwealth of Massachusetts	$25,618	Weights & measures services	Health Budget - Professional Services	Jan 1, 2024 - Dec 31, 2024
Professional Services Agreement	Housing	Site Design Engineering	$150,000	To assist Affordable Housing Trust with residential development options at AHT properties	Affordable Housing Trust Fund	Apr 18, 2024 - Apr 17, 2025
Professional Services Agreement	Information Technology (IT)	ICC Community Development Solutions	$19,748	Laserfiche cloud site for document management	Article 10 2020 ATM	May 1, 2024 - Apr 30, 2025

Professional Services Agreement	Our Island Home	Nantucket Cottage Pharmacy	$45,000	Prescription & nonprescription pharmaceutical, nutritional & other related products	Our Island Home Budget – Medical Supplies	June 1, 2024 – May 31, 2027
Professional Services Agreement	Our Island Home	Preferred Therapy	$300,000	Provide physical therapy, occupational therapy & speech therapy services	Our Island Home Budget – Medical Services	July 1, 2024 - June 1, 2025
Professional Services Agreement	Planning & Land Use Services (PLUS)	PGB Engineering	$7,000	Update of Planning Board's Subdivision Rules & Regulations	PLUS Budget – Professional Services	May 15, 2024 – June 30, 2025
Purchase Agreement	Public Works	C.N. Wood Co.	$150,879	Purchase of new MadVac LS175 Sub-Compact Sweeper	Article 10 2022 ATM; Public Works Budget – Equipment	May 1, 2024 – June 30, 2024
Purchase Agreement	Public Works	J.C. Madigan	$17,300	Purchase of two (2) 8-inch polycaster spreaders	Public Works Budget – Snow & Ice Removal	May 2, 2024 – Sept 1, 2024
Professional Services Agreement	Public Works	Greenman-Pederson, Inc.	$229,025	Final design phase: engineering & bidding services for Surfside Area Transportation Improvements Project	Article 10 2015 ATM	May 16, 2024 – June 30, 2025
Purchase Agreement	Solid Waste Enterprise Fund	Barrett Enterprises	$20,000	Purchase of two (2) 20-foot side open shipping containers for storage/Take it or Leave It facility	Solid Waste Enterprise Fund budget	May 1, 2024 – Apr 30, 2025
Professional Services Agreement	Solid Waste Enterprise Fund	LMC Contracting	$45,000	Gate repair/improvement at Nantucket Landfill	Article 22 2022 ATM	May 15, 2024 – May 14, 2025

Overview

SESSION #0 (January 4, 2024)

1. Administrative Continuance

SESSION #1 (January 25, 2024)

1. Applicants: Town of Nantucket & SBPF
2. Project Background
3. Regulatory Standards
4. Project Purpose and Need
5. Alternatives Considered
6. Analysis and Design
7. Description of the Proposed Project
8. Regulatory Compliance

SESSION #2 (February 22, 2024)

1. Design Review and CES standards
2. Adaptive Sand Management
3. Minimize Adverse Environmental Impacts
4. Operation & Maintenance
5. Monitoring, and Reporting
6. Oversight, Roles and Responsibilities
7. Public Benefits
8. Failure Criteria
9. Regulatory Compliance (Summary)

SESSION #3 (March 14, 2024)

1. NOI Review Schedule
2. Updated Material
3. Eligibility for CES on the Coastal Bank
4. Sand Covered Geotube Design and Public Beach
5. Mitigation, Reporting, and Failure Criteria
6. Conclusion

SESSION #4 (April 11, 2024)

1. Public Comment

SESSION #5 (April 25, 2024)

1. Alternatives Analysis
2. Coir Roll Alternative
3. Sand Sourcing
4. Imminent Danger
5. NOI Review Schedule

Epsilon ASSOCIATES INC.

Libby Gibson

Subject: FW: ConCom Independent Counsel
Attachments: 2024.03.08 Beveridge & Diamond - Proposal to Nantucket Conservation Commission.pdf; RE: ConCom Request for Special Counsel

From: Jeff Carlson <JCarlson@nantucket-ma.gov>
Sent: Wednesday, April 17, 2024 10:27 AM
To: Libby Gibson <LGibson@nantucket-ma.gov>; Town Manager <townmanager@nantucket-ma.gov>
Cc: Gregg Tivnan <gtivnan@nantucket-ma.gov>; Rick Sears <rsears@nantucket-ma.gov>; Will DellErba <wdellerba@nantucket-ma.gov>
Subject: ConCom Independent Counsel

Good morning,
I have been authorized by the Nantucket Conservation Commission by unanimous vote (7-0) to formally request the Select Board to reconsider the proposal from Beveridge and Diamond to provide independent legal counsel to the Commission related to the joint Notice of Intent filed by the Town and SBPF. I have attached the proposal for review. The Commission felt that this would be the timeliest way to get the provided questions answered from an unrelated third party in the Commissions review of the application.

Thanks,
Jeff Carlson
Town of Nantucket
Natural Resources Director
131 Pleasant Street
Nantucket, MA 02554
508-228-7230

Libby Gibson

From: Libby Gibson
Sent: Wednesday, April 3, 2024 2:33 PM
To: Jeff Carlson
Cc: Vincent Murphy; George Pucci
Subject: RE: ConCom Request for Special Counsel

Jeff: in the interim, would the ConCom accept Town Counsel responding to the questions they have, for expediency purposes?

C. Elizabeth Gibson, ICMA-CM
Town Manager
Town of Nantucket
(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: Jeff Carlson <JCarlson@nantucket-ma.gov>
Sent: Tuesday, March 26, 2024 10:40 AM
To: Libby Gibson <LGibson@nantucket-ma.gov>; Town Manager <townmanager@nantucket-ma.gov>
Cc: Vincent Murphy <vmurphy@nantucket-ma.gov>
Subject: FW: ConCom Request for Special Counsel

Good morning,
Please see below and we will work to find a new independent counsel for the Commission to put forward for Select Board approval. I will try to expedite this, but it will probably delay this review by a few weeks at a minimum.

Thanks,
Jeff Carlson
Town of Nantucket
Natural Resources Director
131 Pleasant Street
Nantucket, MA 02554
508-228-7230

From: Dylan Sanders <DSanders@bdlaw.com>
Sent: Tuesday, March 26, 2024 10:23 AM
To: Jeff Carlson <JCarlson@nantucket-ma.gov>
Cc: Will DellErba <wdellerba@nantucket-ma.gov>; Marc J. Goldstein <MGoldstein@bdlaw.com>
Subject: RE: ConCom Request for Special Counsel

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.

Jeff,

Thank you. With regrets, we cannot accept this engagement under the requirements from the Town Administrator and Select Board and thus need to decline pursuing this assignment further. Our proposal of $25,000 already reflected an effective significant discount from our market rates, given (a) our estimate of the work needed to thoughtfully and comprehensively analyze the four questions posed in the RFP, (b) that we have not been involved to date and are unfamiliar with the underlying facts and documents, and (c) that the Commission's actions are highly likely to be the subject of further litigation.

We would be happy to make a further referral to another law firm if that would help the Commission.

Thank you again for the opportunity.

Dylan

Dylan Sanders
BEVERIDGE & DIAMOND PC
O (617) 419-2311 ~ M (617) 549-5828 ~ DSanders@bdlaw.com

From: Jeff Carlson <JCarlson@nantucket-ma.gov>
Sent: Monday, March 25, 2024 4:24 PM
To: Dylan Sanders <DSanders@bdlaw.com>; Marc J. Goldstein <MGoldstein@bdlaw.com>
Cc: Will DellErba <wdellerba@nantucket-ma.gov>
Subject: FW: ConCom Request for Special Counsel

Please let us know your thoughts or if this is acceptable.

Thanks,
Jeff Carlson
Town of Nantucket
Natural Resources Director
131 Pleasant Street
Nantucket, MA 02554
508-228-7230

From: Town Manager <townmanager@nantucket-ma.gov>
Sent: Tuesday, March 19, 2024 5:46 PM
To: Jeff Carlson <JCarlson@nantucket-ma.gov>
Subject: RE: ConCom Request for Special Counsel

Jeff: thank you for your email, attached. The request is approved – within the parameters set forth by the Select Board on January 24th (noted below). Specifically:

The cap is $10,000
The legal engagement includes an opinion limited to the 4 questions outlined in the proposal
Meetings by Zoom as needed

If, somehow, the cap must be increased, the Commission may seek approval by the Board, as indicated below. Thank you.

C. Elizabeth Gibson, ICMA-CM
Town Manager

Town of Nantucket
(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: Town Manager
Sent: Sunday, January 28, 2024 11:14 AM
To: Jeff Carlson <JCarlson@nantucket-ma.gov>
Subject: ConCom Request for Special Counsel

Jeff, good morning:

At its January 24th meeting, the Select Board voted to instruct Town Administration to engage a law firm as independent counsel for the ConCom for advice on technical issues for the NOI, with the following parameters: all requests for independent legal advice to come from a majority vote of the ConCom and be submitted in writing to Town Administration, and then after review, transmitted to independent counsel for written response; attendance of independent counsel at ConCom meetings will be subject to Town Administration approval; cap on legal expense of $10,000. In order to proceed with this, please submit a proposal for special counsel with an engagement letter demonstrating wetlands expertise with an hourly rate. In a spirit of cooperation, the Select Board also advised that representative Commissioners could return with additional requests if needed, and if there is any issue with Town Administration review and approval. Any questions, please let me know. Thank you.

C. Elizabeth Gibson, ICMA-CM
Town Manager
Town of Nantucket
(508) 228-7255

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Beveridge & Diamond

PROPOSAL TO PROVIDE

Independent Counsel to Town of Nantucket Conservation Commission

March 8, 2024

Marc Goldstein

617.419.2315

mgoldstein@bdlaw.com

Dylan Sanders

617.419.2311 (o) 617.549.5828 (m)

dsanders@bdlaw.com

PRIVILEGED & CONFIDENTIAL

1. Name, Firm and Contact Information

Marc Goldstein, Firmwide Managing Principal
Beveridge & Diamond
mgoldstein@bdlaw.com | 617.419.2315 (o)

Dylan Sanders, Counsel
Beveridge & Diamond
dsanders@bdlaw.com | 617.419.2311 (o) 617.549.5828 (m)

Beveridge & Diamond's (B&D) more than 125 lawyers across the U.S. focus on environmental and natural resources law, litigation, and alternative dispute resolution. Clients and colleagues in the industry consider us "The Environmental Law Firm." We help clients around the world resolve critical environmental and sustainability issues relating to their facilities, operations, and products. Clients frequently engage us as "go-to environmental counsel," and we function seamlessly as an extension of our clients' legal and leadership teams.

Representing clients in New England and nationwide on environmental issues impacting their facilities, operations, and projects, our B&D Massachusetts team offers a solid understanding of the interplay between practical business considerations and government regulations and enforcement. Our work involves compliance counseling, permitting, and enforcement defense related to air, water, solid and hazardous waste, right-to-know, and safety, as well as guidance through environmental crises such as release response and reporting, agency enforcement inspections, and deviation events.

2. What is your proposed scope of engagement and cost per hour?

Scope of Engagement

We understand that the Nantucket Conservation Commission (Commission) is requesting, initially, advice on four discrete issues, articulated below. We propose to provide the Commission with advice, guidance, and legal research on these four issues, as well any related or subsidiary legal issues that may arise from our review of these four areas. We will discuss with the Commission the deliverable and work product that would best assist the Commission and provide the same. We will also be available to answer and respond to questions at one or more meetings of the Commission.

If the Commission becomes involved in an administrative appeal and/or litigation arising from this matter, we would be happy to represent the Commission in any such proceeding, subject to further budgeting and terms of engagement.

Advice Requested by the Nantucket Conservation Commission

1. Rehearing limit: The Code of the Town of Nantucket, Chapter 136, § 136-3(F) reads:

> *Permit and waiver rehearing limit*: No permit or waiver which has been unfavorably and finally acted upon by the Commission shall again be eligible for consideration on a new application within three years after the date of final unfavorable action unless the Commission finds, by a favorable vote of a

majority of the members present and voting, specific and material changes in the circumstances upon which the previous unfavorable action was based and describes such changes in the records of its proceedings.

Does the final action taken on SE48-2824 on September 2, 2022, when the Superior Court affirmed the Commission's removal order, require that this rehearing limit be discussed regarding this application's eligibility for review?

2. How do the requirements of the previous and existing MOUs and license agreements factor into the review of the application?
3. How does the current removal order and ongoing lack of compliance with sand mitigation impact this NOI submission?
4. Do the engineer notes in the removal plan documents carry the force and effect of law and how does that impact the new NOI?

Pricing

We offer competitive rates as compared to peer firms of our caliber. In this case, we are willing to offer the Conservation Commission both a significant effective discount from our market rates for this discrete assignment and to take on the engagement for a fixed fee, providing the Commission with certainty.

For the initial scope of the representation, i.e., advising the Commission with respect to the four issues articulated above in the Scope of Engagement, we propose a fixed fee of $25,000, exclusive of costs. (The material costs we anticipate are possible travel costs associated with meeting with the Commission in person.) This fee would include familiarizing ourselves with the necessary background, underlying facts, and legal issues; performing legal research and analysis; strategizing with the client; and communicating our advice to the Commission on the four issues of concern, either in person, by email, or by an informal memorandum or letter.

Team

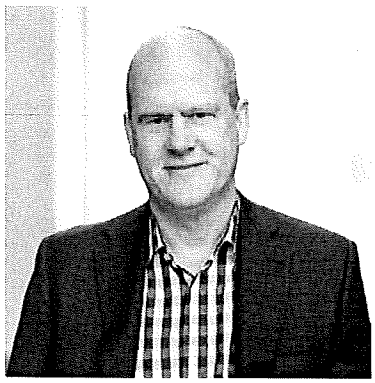
For the initial scope of this assignment, we propose a team of two highly experienced environmental lawyers, whose background is ideally suited to advising the Conservation Commission on this complex matter. Dylan Sanders would take the lead in analyzing the issues, strategizing with the client, and communicating and meeting with the Conservation Commission. Marc Goldstein would second Dylan, providing additional analyses and strategic thinking.

Marc Goldstein | Firmwide Managing Principal, Boston

Marc helps clients resolve environmental and land use disputes and develop commercial and industrial projects. He is a litigator and trial lawyer with experience defending the decisions of local boards on all types of permits and approvals to defending lawsuits ranging from citizen's suits and contaminated site actions under federal environmental statutes. Marc's project development practice focuses on the representation of builders, developers, and property owners seeking permits and approvals, including Comprehensive Permits, wetlands, Title V, historic districts, special permits, and variances.

Marc currently serves as B&D's Firmwide Managing Principal. He chairs the firm's Strategic Planning Committee, and he served previously as Boston Office Managing Principal and head of the firm's Technology Committee and Litigation Practice Group

Full biography | +1.617.419.2315 | mgoldstein@bdlaw.com



Dylan Sanders | Counsel, Boston

Dylan concentrates his practice in disputes involving complex land use, environmental issues, and administrative law. His experience includes representing developers, property owners, and land trusts in zoning, permitting, and land-use litigation, including litigation under the Massachusetts state zoning act (Chapter 40A), state hazardous-waste laws (Chapter 21E), wetlands laws, waterways laws (Chapter 91), and other federal and state environmental statutes and regulations, as well as handling a wide range of general land use and business litigation.

Dylan has extensive experience practicing in federal and state courts, including the Massachusetts federal courts, the state's Land Court and Superior Courts, and the Massachusetts Court of Appeals and Supreme Judicial Court. Dylan has participated in four landmark environmental cases before the Supreme Judicial Court: *Bank v. Thermo Elemental*, 451 Mass. 638 (2008), *Moot v. Golledge*, 448 Mass. 340 (2007), *Kain v. Department of Environmental Protection*, 474 Mass. 278 (2016), and most recently *Armstrong v. Secretary of Energy and Environmental Affairs*, 490 Mass. 243 (2022).

Dylan regularly practices before state and local administrative bodies, including the Massachusetts Department of Environmental Protection and local conservation commissions, planning boards and zoning boards of appeal.

Currently Dylan is handling several matters on Martha's Vineyard before the Edgartown Conservation Commission and other local bodies.

Full biography | +1.617.419.2311 | dsanders@bdlaw.com

Additional Questions

3. Questions for independent counsel must be authorized by majority vote of the Commission and then sent to the Town Managers office.
4. Submission of any bills to the Town Managers office.
5. Regular updates to the Town Manager or designee to monitor proceedings as required by the Town Charter.

We understand that our client would be the Nantucket Conservation Commission, and thus if engaged our duties would run exclusively to that board, as would be required of any independent counsel engaged on behalf of the Conservation Commission. Within those necessary ethical constraints of professional responsibility, we will work with the Commission and the Town Manager as required by the Town Charter, the Town Manager's procedures, and any other Town protocols to facilitate the engagement and execute it the orderly manner dictated by the Town's requirements.

Agenda Item Summary

Agenda Item #	VIII. 3.
Date	5/15/24

Staff

Kristie Ferrantella, Municipal Housing Director

Subject

1. Review Year-Round Deed Restriction Pilot Program Guidelines and Application

2. Authorize the Affordable Housing Trust to fund the program with $2,000,000

Executive Summary

The Affordable Housing Trust Fund has been working with Judi Barrett to develop a year-round deed restriction pilot program. We are seeking feedback from the Board on the guidelines of the program and the authorization to fund the pilot program with $2,000,000.

Staff Recommendation

Approve

Background/Discussion

In response to the Select Board's strategic goal to promote affordable and attainable home ownership opportunities for the year-round community, the AHTF has developed a year-round deed restriction pilot program. The program would establish a permanent deed restriction, which would limit properties to year-round residency. This deed restriction can be either sold to the Affordable Housing Trust by existing homeowners or created during the acquisition of a property by a year-round resident as a form of down payment assistance. The goal of this program is to enable the Affordable Housing Trust to fund a Buy-Down Program for acquiring year-round deed restrictions. This initiative aims to enhance housing affordability and accessibility for the year-round community while establishing a permanent inventory of year-round housing.

The Trust is seeking authorization to fund the pilot program with $2,000,000 in hopes of securing 10 deed restrictions

Impact: Environmental ☐ Fiscal ☐ Community☒ Other☐

In furtherance of the development of affordable / year-round housing for homeownership

Board/Commission Recommendation

The Affordable Housing Trust is continuing to review the program and is seeking comments and feedback from the Select Board prior to finalizing the program

Public Outreach

N/A

Connection to Existing Applicable Plan (i.e., Strategic Plan, Master Plan, etc.)

Strategic Plan – Housing Goal of creating homeownership opportunities for the year-round community

Attachments

1) YR Deed Restriction Guidelines and Application

Nantucket Affordable Housing Trust Fund
Pilot Year-Round Housing Restriction Program Guidelines

The Nantucket Affordable Housing Trust (NAHT) is offering a pilot program to create year-round housing as described in these Program Guidelines. The purpose of this program is to provide housing stability, security, and affordability for people living or working year-round in Nantucket. Toward that end, the NAHT will offer a financial incentive to Nantucket property owners to place a permanent deed restriction limiting the sale or rental of their homes to year-round resident residents of Nantucket. The NAHT will hold the deed restriction on behalf of the Town of Nantucket.

The NAHT has determined that investing public funds in this program is necessary for the quality of life in Nantucket and the well-being of its residents. Due to Nantucket's international recognition as a desirable place for owning a seasonal or vacation home, there is not enough housing that is both affordable to and available for purchase or rent by people who make the town a true community: those who work for the Town and other employers on the island, the small businesses that provide services to year-round residents, seasonal residents, and visitors, and the civic volunteers and retired residents who live here full-time.

Today, the Town of Nantucket and other local employers have job vacancies they cannot fill due to the shortage of reasonably priced housing available for purchase or rent. Although participation in the Nantucket Year-Round Housing Pilot Program is not limited to people who currently work full-time in Nantucket, it is designed to create year-round housing opportunities now to provide housing island's current and future workforce.

During the effective period of Pilot Program period, the AHT's total investment in year-round restriction purchases shall not exceed $2,000,000.

Basic Program Requirements

Program Administrator

Nantucket Affordable Housing Trust

Eligible Participants

Existing or prospective year-round property owners with a total household income not exceeding the household income limits established by the AHTF.

Year-Round Resident

In this program, year-round resident means a household living in Nantucket for a minimum of 10 months in any one-year period.

Nantucket Employee

The term "Nantucket Employee" includes any of the following:

- A year-round resident employee working in Nantucket who works at least 30 hours per week, on average, on an annual basis or earns 75% of her income and earnings by working for a Nantucket employer establishment; or
- A year-round resident who derives income from self-employment whose business is in Nantucket, or
- A non-resident who has accepted a full-time job offer from a Nantucket employer establishment and is searching for housing in Nantucket.

For purposes of this definition, a person who works primarily on a "remote" basis shall not count as a Nantucket Employee. Remote work is a flexible work arrangement in which an employee, under a written remote work agreement, is scheduled to perform work at an alternative worksite and is not expected to perform work at the employer's worksite on a regular and recurring basis.

Nantucket Employer Establishment

A public, non-profit, or private employer whose place of business is in Nantucket and where paid employees provide services or conduct commercial or industrial operations in Nantucket.

Nantucket Year-Round Housing Deed Restriction

The Program requires a deed restriction to be recorded with the Nantucket County Registry of Deeds or if registered land, filed with the Nantucket Registry District of the Land Court, to preserve the land and building(s) thereon as a year-round residence. The restriction can be sold to the AHTF by existing property owners or created during the acquisition of a property by a

year-round resident. Existing homeowners would be able to collect a certain percentage of their equity by placing a year-round restriction on their property.

Term of Restriction

The deed restriction is perpetual and runs with the property and all future resale transactions. The property must remain the primary residence of the Eligible Participant and any future buyer. Eligible Participants agree to recertify their eligibility as an Eligible Participant annually.

Maximum Household Income

Year-round residents occupying a deed-restricted property shall have total household income that does not exceed 240 percent of the Nantucket County Area Median Income (AMI) Limits, adjusted for size, established by the U.S. Department of Housing and Urban Development (HUD). The following chart contains the maximum household income limits that apply to the program.

	2024 Income Limits			
Household Size	50% AMI	100% AMI	175%	240% AMI
1	$53,600	$107,200	$187,600	$257,280
2	$61,250	$122,500	$214,375	$294,000
3	$68,900	$137,800	$241,150	$330,720
4	$76,550	$153,100	$267,925	$367,440
5	$82,700	$165,400	$289,450	$396,960
6	$88,800	$177,600	$310,800	$426,240

*Calculation of 100%, 175%, and 240% AMI is based on the 50% income limits set annually by the U.S. Department of Housing and Urban Development (HUD).

Maximum Affordable Purchase Price of The Property

The maximum affordable purchase price refers to the price affordable for a year-round resident household whose income does not exceed the Maximum Household Income. In no event shall the resale price of a deed-restricted home exceed the home's market value. Based on 2024 Income Limits at 240% AMI, the maximum affordable purchase price for a single-family dwelling is approximately $1.2 million and for a condominium, approximately $912,000. The maximum affordable purchase price will fluctuate based on prevailing interest rates and other factors.

Incentive for Increased Affordability

The Program Administrator may provide additional funding to a first-time homebuyer in the form of a purchase price buydown to create a year-round unit affordable to Eligible Participants with annual household income not exceeding 175% AMI. The buydown assistance will be

secured by an affordable housing deed restriction that incorporates all the provisions of the Nantucket Year-Round Resident Deed Restriction in addition to a resale price capped at an amount affordable to households with income not exceeding 175% AMI.

Eligible Properties

Eligible properties shall include detached single-family homes, condominiums, townhouses, or duplexes taxed as residential real estate in the Town of Nantucket, not encumbered by any other restriction, right of first refusal, or any type of land use regulatory restriction that would conflict with the purposes of the Nantucket Year-Round Housing Program. For homes with an existing mortgage, the mortgage lender will be required to accept a subordination agreement establishing the Year-Round Restriction as the superior claim against the property.

Primary Residence

The deed-restricted year-round unit must be occupied by an Eligible Participant as their primary residence, i.e., living and working in Nantucket at least 10 months in any one-year period, or if retired, living in Nantucket at least 10 months in any one-year period.

Short-Term Rental Prohibition

No dwelling unit on a deed-restricted year-round property shall be used as a short-term rental as defined in Chapter 123 of the Town of Nantucket Code.

AHTF Payment

The AHTF's payment for a year-round deed restriction shall be the minimum necessary to achieve the Program's purposes, but in no event more than 20 percent of the market value of the home.

Annual Recertification

Eligible Participants must certify their eligibility as a Year-Round Resident annually.

Future Resale

The Program Administrator shall approve all future buyers. A waitlist of Eligible Participants will be maintained by the AHTF.

Application; Processing

Application may be made by:

- The current property owner/year-round resident who wishes to convey a year-round deed restriction to the AHTF, subject to a negotiated payment;
- The year-round resident/homebuyer who is negotiating a purchase-and-sale ((P&S) agreement with an owner willing to accept payment for the restriction at the point of sale;

The Program Administrator will review and render a decision within two weeks of receipt of a complete application from an Eligible Participant. Upon notification of approval, the Eligible Participant will execute a deed restriction purchase agreement with the AHTF.

Other

The following conditions and limitations shall apply to the Program:

1. Existing property owners interested in participating in the Program should consult with a qualified financial advisor or an attorney about the potential tax or estate implications of conveying a year-round deed restriction to the AHTF.
2. The Eligible Participant may not own any other residential real estate at the time of purchase or for the period during which the Eligible Participant owns the property.
3. Inter-family transfers of a dwelling that is subject to a Year-Round Deed Restriction are expressly prohibited.
4. Property with an existing Right of First Refusal is not eligible for the Program.
5. The Eligible Participant owning a deed-restricted dwelling may rent other dwellings on the restricted property provided the other dwellings are also rented to year-round residents as that term is defined in these Program Guidelines.
6. Applications may be denied based on the physical condition of the proposed property, concerns with the purchase agreement or a determination that the deed restriction purchase is not in the best interest of the Town.
7. These Guidelines are subject to change and changes are binding upon the applicant.
8. The availability of funding from this Program is subject to appropriation by Nantucket Town Meeting and housing market conditions.

Application
Nantucket Year-Round Housing Restriction Program

Applicant Information:

1. Applicant's Name:

First Name	Last Name

2. Present Address:

Street and Street Number		
Town	State	Zip

Email	Phone

3. Are you currently employed in Nantucket?

☐ Yes ☐ No

4. If not, which if the following applies to you, the Applicant:

☐ I have accepted a full-time, year-round job on Nantucket and I am looking for housing

☐ I am an existing year-round resident and I plan to continue living in my home as a year-round resident after the deed restriction is approved by the Town and recorded with the Nantucket County Registry of Deeds

☐ Other (please explain):

_____

_____

5. What entity is or will be your full-time employer, if applicable? Please provide employer name, address, and contact information:

_____

_____

Property Information:

6. Address of Nantucket Property to be Year-Round Restricted

_____

Street and Street Number

_____

7. Unit Type:

☐ Single-Family
☐ Condominium
☐ Townhouse
☐ Duplex
☐ Single-Family with additional units on the property, e.g., accessory or tertiary dwelling units
☐ Other (Explain):

_____

_____

8. Characteristics:

Number of Bedrooms:	
Number of Bathrooms:	
Number of Parking Spaces:	
Heating System/Fuel:	

Applicant Type:

9. Do you own this property or are you purchasing it?

☐ Existing owner ☐ Purchaser

10. If you are the Purchaser, have you entered into a Purchase and Sale Agreement?

☐ Yes ☐ No

11. If yes, what is the Contract Price?

$

_____

12. If yes, by what date do you need a decision?

_____

13. If you are the existing property owner, is there a mortgage or other lien against the property?

☐ Yes ☐ No

Please explain:

_____

_____

14. Is there a Right of First Refusal on the property?
☐ Yes ☐ No

15. Is there an existing Homeowners Association?
☐ Yes ☐ No

16. Do you intend to live on the Property as a year-round resident of Nantucket?
☐ Yes ☐ No

Applicant Signature:

I/we certify that all information and statements provided in this Application are complete and truthful, and that I am providing or will provide the documentation required for the Program to review and act on this Application.

Applicant's Signature	Date

Additional Information Required:

Application must be accompanied by the following documentation in order to be considered a complete application:

Evidence demonstrating that you are an existing year-round resident (e.g., property tax bill, utility bill showing the property address and ownership, purchase and sale agreement if application is submitted by prospective homebuyer):

- Documentation of Nantucket employment, where applicable
- Documentation of Annual Household Income, including all adult members of the household
  - Most recent federal income tax returns (two years), including Form 1040 and all associated forms and schedules
  - Pay stubs
  - Bank statements demonstrating regular income
  - Documentation (e.g., determination letters) for other sources, such as Social Security, SSI
  - Verification letter for pension or annuity

Agenda Item Summary

Agenda Item #	VIII - 4
Date	May 15, 2024

Staff

Assessor, Town Manager, Real Estate Specialist, Town Counsel

Subject

Property owner request to abate betterment assessment

Executive Summary

Around 2011/12, the Town undertook the relocation of a portion of Sheep Pond Road due to erosion and assessed property owners the costs of the repairs through betterment assessments. Betterment assessments are allowable under Mass General Law through a specific process. Since then, erosion activity in the Sheep Pond Road area has increased and the subject property has been washed away. The property owners are requesting that their assessment be abated as the property no longer exists. The Board may undertake a review of the situation and after making findings either grant the request or not. The owners could also potentially initiate legal action.

Staff Recommendation

Recommend that the request be approved, with a finding that the outstanding betterment is minimal and the property is no longer physically present; and that this is not a precedent-setting action.

Background/Discussion

As noted, the amount of the outstanding betterment is minimal; the property is gone; and, even though the owners benefitted from the repairs undertaken by the Town for a time, the time, effort and cost to keep the betterment in place would exceed the betterment amount.

Impact: Environmental ☐ Fiscal ☒ Community☐ Other☒

Board/Commission Recommendation

N/A

Public Outreach

N/A

Attachments

Email exchanges with staff and Town Counsel; letter from property owner

Erika Mooney

From: Janine Garvey <janinemg5@gmail.com>
Sent: Monday, April 22, 2024 4:26 PM
To: Erika Mooney
Cc: Rob Ranney
Subject: Sheep Pond Road Betterment - Removal Request
Attachments: Road Betterment Removal Request.pdf

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.

Erika,

As we discussed, I have attached my parent's request to the Select Board be removed from the Sheep Pond Road Betterment Charge.

I understand that you will review the request with key Select Board officers this Wednesday prior to it being put on the 5/1 meeting agenda for a vote.

Rob Ranney is very familiar with the situation and is copied here.

Thanks for your help,

Janine Garvey

April 22, 2024

To: Select Board

From: George & Marie Frazza

RE: SHEEP POND ROAD BETTERMENT - REMOVAL REQUEST

Dear Select Board,

We are the former owners of the house that was located at 21 Sheep Pond Road. Due to severe storms and continued erosion, on 7/5/2023, our house was condemned by the Nantucket Health Department. Sadly, we were unable to save the home that we, and our extended family, had loved for 28 years. On 10/19/2023, our house (incl. septic and well) was demolished and removed at a significant personal cost. The land that the house sat on is now beach and water.

Last week, Rob Ranney, the town's Tax Assessor, confirmed that the value of the land is zero. Consequently, we no longer have a Sheep Pond Road affiliation.

We are requesting that we be removed from the annual Sheep Pond Road Betterment Charge of $340.

If you have questions or need additional information, please advise.

Thank you,

George & Marie Frazza

Erika Mooney

From: Rob Ranney
Sent: Thursday, April 25, 2024 2:24 PM
To: Erika Mooney
Subject: RE: Sheep Pond Road Betterment - Removal Request

Hi Erika,

The comments are correct. The yearly betterment payment added to their tax bill every year is $340 and some cents (it varies a little every year – for FY24 it was $340.16). They agreed to have the original $4,245 added to their tax bill in 2014 for a 20-year term. Payments began in FY2015 and currently run until FY2034.

The balance remaining, because they did pay the FY2024 amount, is now $2,630.25

Please do not hesitate to let me know if I can be of any additional assistance, or if there are additional questions, comments, or concerns.

Thanks, Rob

Robert F. Ranney, MAA
Assessor
Town of Nantucket
37 Washington Street
Nantucket, MA 02554
508-228-7200 ext 7037
www.nantucket-ma.gov

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From: Erika Mooney <EMooney@nantucket-ma.gov>
Sent: Thursday, April 25, 2024 2:10 PM
To: Rob Ranney <rranney@nantucket-ma.gov>
Subject: FW: Sheep Pond Road Betterment - Removal Request

Rob:
Can you please confirm the comments made by Janine Garvey as found in the attached letter? And what the balance of the betterment is left from the original assessment from 2013? Thanks.

Erika

Erika D. Mooney
Operations Administrator
Town of Nantucket
16 Broad Street, Room 113

Nantucket, MA 02554
508-228-7266

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Sent: Monday, April 22, 2024 4:26 PM
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Rob Ranney is very familiar with the situation and is copied here.

Thanks for your help,

Janine Garvey

Libby Gibson

From: Thomas McEnaney <TMcEnaney@k-plaw.com>
Sent: Monday, March 18, 2024 4:23 PM
To: Libby Gibson; Rob Ranney
Cc: John Giorgio; Jeffrey T. Blake; Thomas McEnaney
Subject: RE: Sheep Pond Rd Betterment Release

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.

Libby:

In my opinion, there is no specific statutory process for this exact situation. As set forth below, G.L. c.80 provides for a 6 month period after assessment to request an abatement and 30 days to appeal to Superior Court after a decision on abatement has been issued. Here, there was no appeal, and the time for any appeal has expired. Therefore, the Town could simply let the property owner know that there is no ability to provide him with any relief.

However, if the Town is inclined to provide the property owner with relief from the remaining betterment payments, the owner should send a letter to the Board requesting an abatement, setting forth the reasons in support of his position. This item (Abatement Request: 21 Sheep Pond Road—Road Betterment) would be added to an agenda for a Board meeting. The Board would take it up like any other agenda item. It would make sense for the owner to appear to present his case. The motion would simply be to move to grant the request for abatement and abate the remaining $2600 outstanding on the betterment assessment, or to move to deny the request. The Board would want to state the reasons in support of its decision.

$2630.25

As for you side question, you bring up a good point. If the Board grants an abatement here, in my opinion, it does not necessarily create a binding precedent. However, it could create an argument that other similarly situated people who are denied abatements are being treated in a disparate manner, which would potentially give rise to an equal protection claim.

If the Town is inclined to abate the remaining amount due, another option, instead of granting an abatement, is for the owner to file a "friendly" lawsuit against the Town. The Town can then enter into a settlement agreement to abate the outstanding betterment. Settlement agreements have no binding precedent, and here specifically, can easily be justified as the costs of defending against the claim would undoubtedly exceed the $2,600.00 in dispute. In my opinion, this option would better insulate the Town from exposure to an equal protection claim.

If you have any questions, please do not hesitate to contact me.

Thanks.

Tom

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March 27, 2024

Town of Nantucket
Select Board
Nantucket, MA

Dear Honorable Board:

We have audited the financial statements of the Town of Nantucket, Massachusetts "the Town" as of and for the year ended June 30, 2023. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards and the standards applicable to financial audits contained in *Governmental Audit Standards*, issued by the Comptroller General of the United States of America, as well as certain information related to the planned scope and timing of our audit. We communicated such information to the Town's management prior to our commencement of auditing procedures. Professional standards also require that we communicate to you the following information related to our audit.

Significant Audit Matters

Scope limitation

There were no scope limitations.

GAAP Departure

There were no GAAP departures.

Material Weaknesses/Significant Deficiencies

There were no material weaknesses or significant deficiencies.

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the Town are described in Note 2 to the financial statements. No new accounting policies were adopted, and the application of existing policies was not changed during 2023. We noted no transactions entered into by the Town during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ

significantly from those expected. The most sensitive estimates affecting the Town's financial statements were:

The presentation of the Town's total pension liability and related accounts is determined through biennial actuarial studies, which are rolled forward by an actuary to June 30 each year. We have received an AU805 report from the independent auditor of the County pension system.

The presentation of the Town's total OPEB liability and related accounts is determined through biennial actuarial studies, which are rolled forward by an actuary to June 30 each year. We have received the actuarial report from the actuary.

Certain financial statement disclosures are particularly sensitive because of their significance to financial statement users. The most sensitive disclosures affecting the financial statements are those that describe the Town's net pension and OPEB liabilities at June 30, 2023.

The financial statement disclosures are neutral, consistent, and clear.

Difficulties Encountered in Performing the Audit

There were no difficulties encountered in completing the audit.

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are clearly trivial, and communicate them to the appropriate level of management. None of the misstatements detected as a result of audit procedures were material, either individually or in the aggregate, to the Town's financial statements taken as a whole.

Disagreements with Management

For purposes of this letter, a disagreement with management is a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

We have requested certain representations from management that are included in the management representation letter dated March 27, 2024.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the Plan's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the Town's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

Other Matters

We applied certain limited procedures to the Town's required supplementary information ("RSI") that supplements the basic financial statements. Our procedures consisted of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We did not audit the RSI and do not express an opinion or provide any assurance on the RSI. We also made verbal communications about matters that we deemed appropriate to Town Management throughout the course of the engagement and through the time of issuance of the financial statements and issued a management letter that consisted of informational items and internal control observations dated March 27, 2024.

Restriction on Use

This information is intended solely for the information and use of the Select Board and management of the Town of Nantucket and is not intended to be, and should not be, used by anyone other than these specified parties.

Very truly yours,

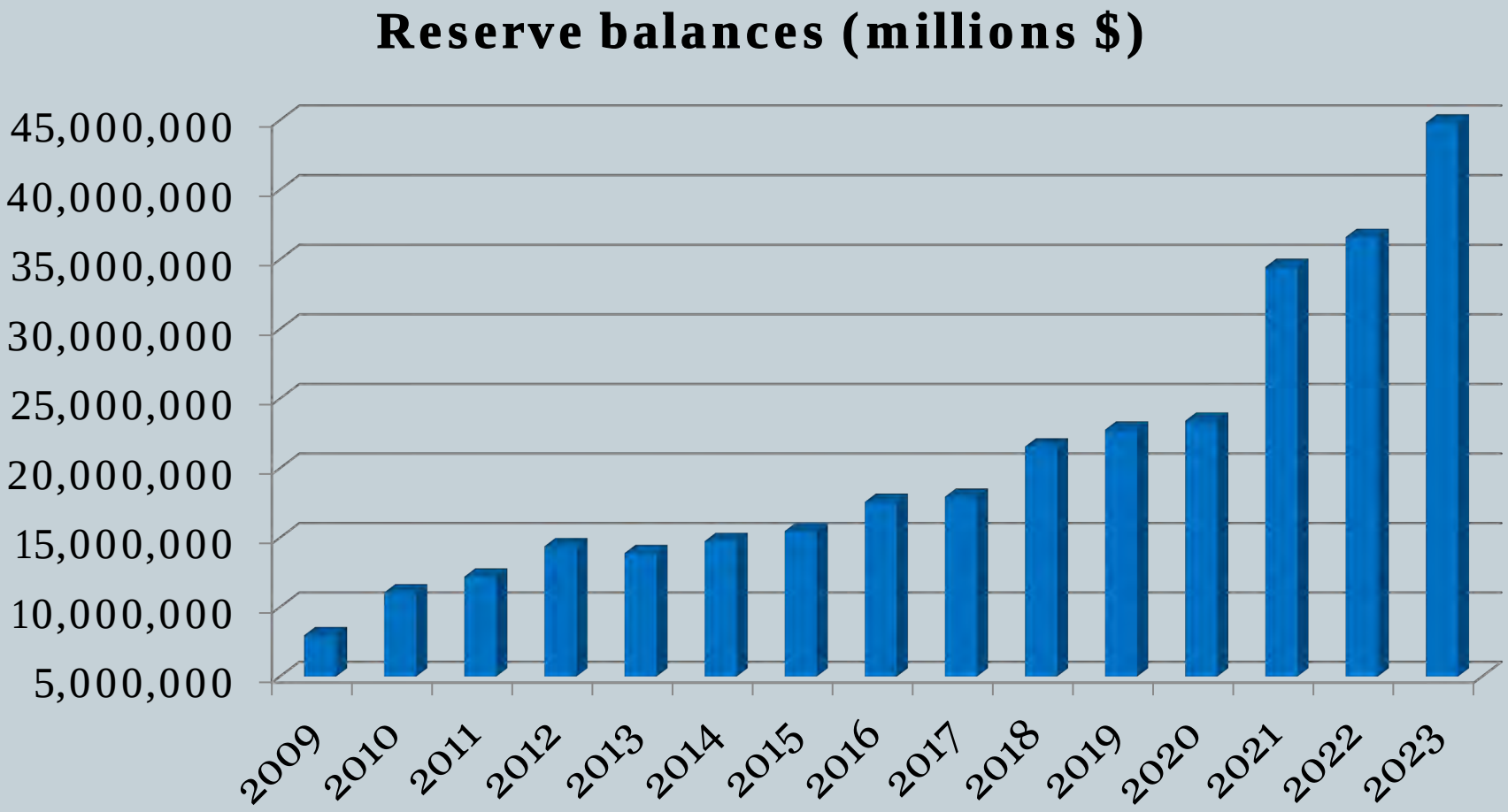
Roselli Clark & Associates

Roselli, Clark & Associates
Certified Public Accountants
Woburn, Massachusetts

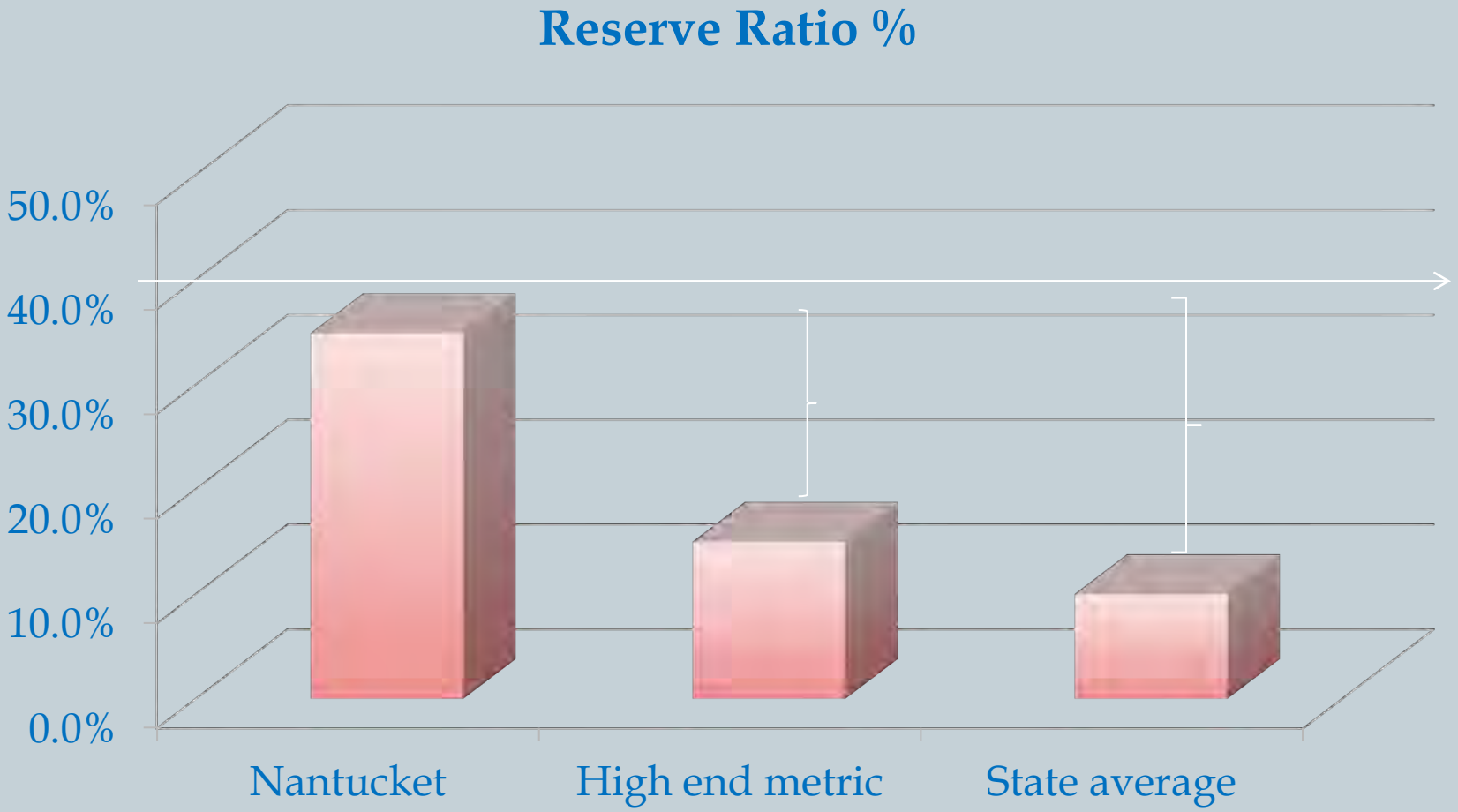
Town of Nantucket

AUDIT EXIT CONFERENCE – SELECT BOARD
ROSELLI, CLARK & ASSOCIATES
MAY 15, 2024

Economic Trends



Economic Trends



Economic Trends

- Financial trends remain excellent
- Metric significantly exceeds high-end credit rating floor of S+P 15% modelling and 30% Moody's modelling.
- Metrics exceed State averages significantly
- Continue walking the line between reserves and levy capacity very well

Economic Trends

- Target bond rating Aaa has been achieved with Moodys in 2018
- Town has been rewarded for the diligent efforts of its financial and management teams
- One of 15 communities State-wide to achieve this goal
- The Town is and will continue to experience significant savings in the form of reduced interest expense as it continues its ongoing capital improvement program
- Important to maintain this momentum and maintain consistency in reserves

Informational Items

- OPEB
  - $125 million
  - Plan Assets about 5% of liability
  - County expected to be fully funded by 2025
  - Investigate opportunities to reduce liability on the Town side
- Network Security
  - Remain vigilant
  - Employee training and awareness
- Investment Income – increasing significantly due to diligent investment procedures in the Treasurer's Office - $3 million in 2023 and expect more in 2024.

Findings and Recommendations

- Chapter 90 reimbursement process
- DESE chart of accounts
- Water inventory procedures
- BAN Premium
- Stagnant balances
- Payroll testing

Findings and Recommendations

- Receivables
  - Ambulance
  - Landfill
  - Credit balances
  - Old delinquent balances
  - Tax liens

Questions

ROSELLI, CLARK & ASSOCIATES
Certified Public Accountants

RCA
CPA

TOWN OF NANTUCKET, MASSACHUSETTS

Management Letter

Year Ended June 30, 2023

TOWN OF NANTUCKET, MASSACHUSETTS

MANAGEMENT LETTER
YEAR ENDED JUNE 30, 2023

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TRANSMITTAL LETTER

Select Board
Town of Nantucket
Nantucket, Massachusetts

In planning and performing our audit of the financial statements of the governmental activities, each major fund, and the aggregate remaining fund information of the Town of Nantucket, Massachusetts, (the "Town") as of and for the year ended June 30, 2023 in accordance with auditing standards generally accepted in the United States of America, we considered the Town's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Town's internal control. Accordingly, we do not express an opinion on the effectiveness of the Town's internal control.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal controls.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control.

Our consideration of internal control was for the limited purpose described in the first paragraph and may not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified. This communication is intended solely for the information and use of management, the members of the Select Board, and others within the organization, and is not intended to be and should not be used by anyone other than these specified parties.

Roselli Clark & Associates

Roselli, Clark & Associates
Certified Public Accountants
Woburn, Massachusetts
March 27, 2024

EVALUATION OF TOWN OPERATIONS

OVERVIEW

Fiscal 2023 was another fantastic operating year for the Town. General fund results showed a $6.5 million favorable outcome bolstered by revenues exceeding forecasts in many areas including investment income (see discussion later). The Town's continued efficient forecasting of revenues and management of expenditures bolstered by a strong economy led to historic highs in most reserve categories including unassigned fund balance in the general fund.

This strong financial performance has allowed the Town to maintain a credit rating at Aaa, the highest investment grade bond rating on the Moody's scale, one of only 15 communities in the Commonwealth to maintain this rating.

Key financial highlights:

1. Unassigned fund balance increased to about $45 million from about $36 million.
2. Stabilization funds increased to $12.2 million (A subset of the unassigned fund balance).
3. Balanced budget for fiscal 2024.
4. OPEB Plan assets increased to $6.4 million.

Key challenges:

With inflation peaking near 40-year highs, and an aggressive Federal Policy Committee increasing rates at a historic pace, the Town can expect challenges in other areas that it has not faced in many decades:

1. Wage inflation – the ability to maintain quality employees at reasonable wages.
2. Interest rates – the ability to finance capital projects at reasonable financing costs.
3. Construction inflation – the ability to complete capital projects at budgeted costs.
4. Energy inflation – the rising costs of oil, gas and electricity.
5. Goods and services – the supply chain disruptions impacting efficiency and cost of delivery of services.

We urge the Town to monitor these situations very closely and plan accordingly as it sets forth in its fiscal 2025 budget process and capital planning.

The remainder of this letter addresses items of interest that we are communicating to the Town in the form of "Informational Items"; (these are not considered findings) and a section labeled "Findings and Recommendations", which are our observations in areas that the Town is encouraged to devote attention to. Improvements in these areas are recommended in an effort to improve internal control and efficiency.

INFORMATIONAL ITEMS

Other Postemployment Benefits (update)

The Town's OPEB liability exceeded $125 million as of June 30, 2023. This is an improvement over the prior year. An increase in contributions and a very strong investment performance led to this result. The current funded ratio is now near 5%, which places the Town closer to the mean when compared to its peer communities. In addition, the County, which is a component unit of the Town, was able to fund near 80% of its OPEB liability and is expected to fully fund it by the end of fiscal 2024.

The Town should continue to investigate ways to reduce this significant liability including revisions to its investment policy which could serve to increase the discount rate.

Investment Income

In prior years, we have suggested the Town take a more aggressive but still fairly safe approach to investing excess cash balances. The Town has a significant amount of cash, and using this asset as a revenue producing vehicle is prudent. We congratulate the Town for making this effort by taking advantage of increasing interest yields. The Treasurer's aggressive approach to creating a competitive process with its banking network directly led to the Town earning investment income of over $3 million during fiscal 2023 and we understand these efforts continue into fiscal 2024.

Network Security (annual reminder)

In the prior year, we alerted the Town to continue to monitor its network security (the Town had a network security assessment completed recently). We remind the Town that given the remote processing of its financial transactions during this social distancing period that network security becomes more vulnerable and should continue to be evaluated on an ongoing basis.

FINDINGS AND RECOMMENDATIONS

Chapter 90 (update)

Chapter 90 and other roadwork balances have accumulated a deficit of over $1.3 million. In the prior year, approximately $900,000 of this deficit was covered through a grant anticipation note, however no such note has been observed in the current year. There has not been a reimbursement from the State DOT in over two years now.

The process of requesting reimbursements from the Commonwealth for roadwork should be reviewed and efforts should be implemented to make the process more efficient.

Receivables

Ambulance Receivables (update)

Ambulance receivables currently is approaching $2 million. This is triple the amount of total payments for the entire year. The over 120-day amount represents $1.7 million of this total. The balance has increased approximately $200,000 every year since 2016 when the balance was about $300,000 and increased over $400,000 in fiscal 2023. The amount reserved for uncollectible amounts on the financial statements is now over $900,000. We observed that there has been very little in the form of annual write-offs and thus the balance keeps increasing. Typically, once an ambulance receivable exceeds a certain time frame, it becomes very challenging to collect and in many instances a patient could pass away and the amount is never collected without attaching a medical lien, which is not the Town's policy. We suggest the Fire Chief review the outstanding listing and propose an amount that should be reasonably abated.

Landfill Billings and Receivables (updated from prior year)

Tipping fees for the landfill are billed and collected by the Department of Public Works. The department's skill set is managing and performing public works projects; its efficiency and effectiveness in managing financial-based processes is not as great as within the Collector's Department.

While the outstanding receivables for 2023 were $70,000 less than the prior year, and showed some improvement, the total receivables, (user fees and tipping fees) has increased from $644,000 to $872,000 over the last two years. Thus, the department's receivable aging continues to show deterioration. This occurs when amounts billed are not collected efficiently. Such a process, if left uncorrected, could lead to a write-off of a Town asset. Additionally, the build-up of receivables is a consumption of the Town's cash resources.

We recommend the Town's Finance Department assess this situation and determine the cause. Once completed, a plan should be developed to bring this under control.

Credit Balances (repeated)

Currently the Town has numerous credit balances included in their receivable listings. Most notably are those for sewer utility billing.

A credit balance is either an overpayment, which should be returned to the user or an error which should be corrected.

We suggest the Town research these credit balances and resolve these as soon as possible. As a project, the Town should review all receivable balances (i.e. personal property, real estate, motor vehicle etc.) If the Town is unable to identify the reasons for these credit balances, it could also advertise these as abandoned property and credit these as revenue if not claimed.

Old Receivable Balances (repeated)

The Collector's Office continues to maintain receivables that are historically many years in default. While some improvements were made in Motor Vehicle and Boat Excise during 2023, Personal Property goes back to 1989, and Real Estate to 1995.

Many of these balances are immaterial in relation to the overall Town activity and the only means of collection enforcement is through small claims court or enforced through nonrenewal of business permits.

In order to address this further, the Collector's Office can create a schedule and identify the holder of each account. This could then be cross-referenced to the Town Clerk's Office where business permits are maintained. In doing so the Town could learn which businesses are still active and if in default, either revoke the business permit or not renew the business permit on next renewal.

Once these efforts have been exhausted, a request to the Assessors to abate the tax under MGL Chapter 59 Section 71 makes most sense using the following steps:

a) If the collector is satisfied that a tax on tangible personal property is uncollectible because of death, absence, poverty, insolvency or other inability of the person assessed to pay, he/she may notify the assessors under oath that these taxes cannot be paid. The assessors must decide within 30 days after receipt of the notice whether to abate the personal property taxes.

b) If an abatement is granted, the assessors must certify the abatement in writing to the collector. The certification will discharge the collector from any further obligation with respect to this tax.

Tax Liens (updated)

The Town's tax lien outstanding principal balance amount has begun to show some improvement. Principal balances which were approaching $3 million in 2021 have now been reduced to $2.3 million at the end of 2023. We are encouraged by the Town's increased efforts in this area and recommend the Town to continue allocate the necessary resources to continue to improve this process.

Old Bond and BAN Premium Liability (update)

The Town currently maintains over $1.1 million in two General Fund liability accounts related to bond and BAN premiums, some of which have aged five or more years. We suggest the Finance Office research the detail of these balances, and post these with the Capital Projects with which

they belong or classify the very old balances as income since they should have been fully amortized under old premium regulations by now.

Stagnant Special Revenue Accounts (update)

As of June 30, 2023, the Town maintained 86 special revenue accounts that had no activity yet totaled almost $1.5 million in fund balance. A few years ago, the Town completed a project to clean-up a lot of old accounts by reviewing these with department heads to see if they still have applicable uses or if they should be closed out. We understand the Finance Office is reviewing these in an attempt to resolve them.

DESE/Chart of Accounts (repeated)

The Massachusetts Department of Elementary and Secondary Education (DESE) requires all school districts to maintain an accounting system in accordance with 603 CMR 10.03(3)(a) which states:

> Each school district shall utilize a financial reporting system that permits the reporting of all school district expenditures by fund source, object and function and permits the reporting of certain costs by program and school. The fund source, object, function, program, and school classifications for which reporting shall be required shall be those identified and described with specificity in the guidelines published by the Department.

The current MUNIS general ledger chart of accounts utilized by the Town and School does not include the DESE object codes and utilizes the DESE function codes inconsistently. As a result, the School is not in compliance with DESE regulations. In addition, the completion of the annual DESE End of Year Financial report is made more cumbersome as many costs must be allocated using multiple spreadsheets. We recommend that the School update its chart of accounts to comply with DESE guidelines. This will most likely be a project that takes more than one fiscal year due to the need to redesign the chart of accounts and to have MUNIS implement the changes while keeping the historical activity in the general ledger. This would also be an opportune time for the Town to examine whether non-school accounts should also be updated to enhance reporting capabilities.

Water Inventory (update)

In the prior year, we completed observation tests at the Wannacomet Water Department. The purpose of our test was to evaluate the controls associated with its inventory. We made the following recommendations as a result of our procedures:

1. Perform physical inventory counts periodically (semiannual is preferred, annual at a minimum)
2. Compare actual counts to the inventory records.
3. Investigate any variances.
4. Consider surveillance in the building, especially in the inventory areas.
5. Limit access to the “locked” room.
6. Place the meters in the locked room instead of the unlocked front room.
7. Write-off any variances that can’t be resolved.
8. Write-off old obsolete inventory.

The lack of proper inventory controls has become a much larger issue in fiscal 2023. In an effort to have ready inventory on hand due to supply constraints, the Water Department doubled its inventory levels to nearly $800,000 as of the end of fiscal 2023. While increasing supplies is prudent in the current environment, it becomes even more critical to implement controls.

Payroll Tests (repeated)

As we have suggested in prior years, Human Resources should implement a rotating process of auditing personnel files. The last time it was completed independently by our firm, there were a few items missing from the files. We will be repeating that test in fiscal 2024.

Departmental Update

Finance Department

Brian E. Turbitt, Director of Municipal Finance

May 15, 2024

Agenda

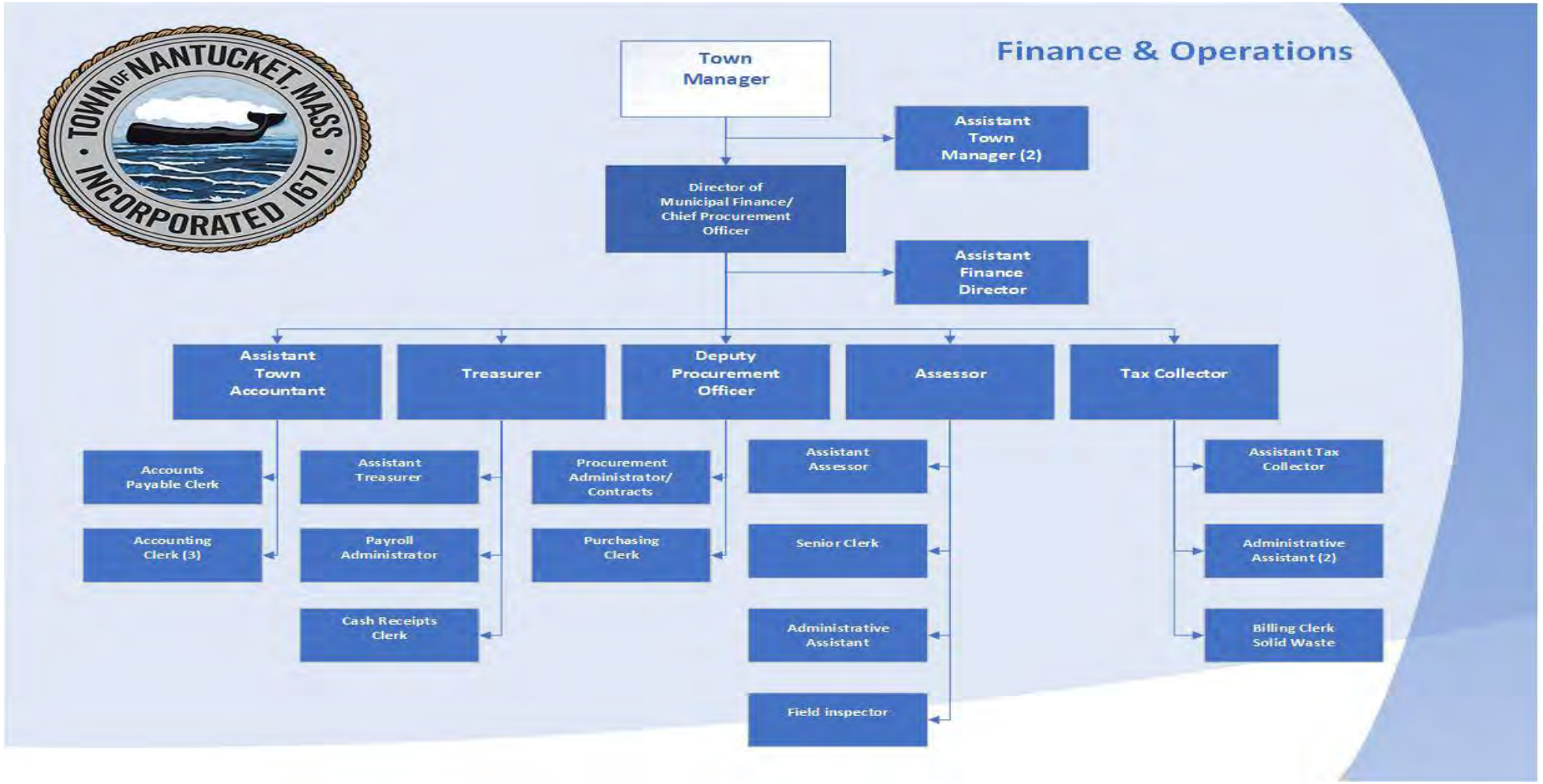
1. Mission and Goals
2. Organizational Structure
3. Finance Department Operations
4. Key Projects
5. Recent Achievements
6. Challenges and Opportunities
7. Summary

1. Mission and Goals

- Mission
  - The Nantucket Finance Department is dedicated to fostering fiscal responsibility, transparency, and efficiency in managing the financial resources of our community. Through strategic planning, prudent financial stewardship, and innovative solutions, we aim to support the sustainable growth and well-being of Nantucket while ensuring accountability to its residents

- Goals FY 24 -25
  - Ensuring fiscal responsibility
  - Enhancing transparency
  - Promoting efficiency
  - Supporting strategic planning
  - Facilitating compliance
  - Encouraging innovation
  - Prioritizing community needs

2. Organizational Chart



Department Organizational Structure

- The Finance Department Currently has a total of 24 professionals across 5 departments
  - Finance and Accounting – 7
  - Treasury – 4
  - Procurement – 3
  - Assessing – 5
  - Collections – 5
- As of April 2024, the department has 1 vacancy in the Collectors Office (Assistant Collector)
- The Collectors position was recently filled with an internal promotion.
- The FY25 budget did not request any new positions.

3. Finance Department Operations

- Assessors Office
  - There are 10,931 residential parcels in the Town, with 2,300 of the residential properties receiving the residential exemption and 632 commercial properties.
  - Number of Real and Personal Property bills issued in FY 24 was 21,975
    - 14,340 Property tax bills issued for FY 24
    - 7,635 Personal Property Bills issued
  - The Town Issued 23,466 excise tax bills during FY 24

Finance Department Operations

- Finance and Accounting
  - The department processed 8,953 cash receipts last year, these include payments for taxes, building permits, excise taxes and sewer and water bills.
  - Accounts payable processed 64 payables warrants, with most of those warrants having over 500 invoices in them.
  - Process 26 bi-weekly payroll with an average of 525 employees paid on each payroll warrant
  - Conducted in excess of 200 procurements during the fiscal year
  - Manage all accounting functions for the county including processing of payroll, and accounts payable.

Finance Department Operations

- Fiscal 24 Operations
  - Overall Revenue is in line with the projected budget
  - Expenses are in line with the approved budget for 2024

- Fiscal 25 EIR's and Capital
  - The Finance did not submit any EIR's for FY25
  - There were no Capital requests submitted for FY 25

4. Key Projects

- Implementation of Tyler Content Manager
  - Goal: Create operational efficiency in the bill paying process
    - The implementation of Tyler content manager will allow for a more efficient and timely processing of bills by the departments.
- Implementation of online procurement system
  - Goal: Put all Town procurements online through the OpenGov procurement portal.
    - Utilizing the online procurement portal will allow for more efficient production of IFB's and RFP's by standardizing the front-end templates, thereby allowing the departments and procurement office the ability to more efficiently issue the IFB's and RFP's
- Update to Town's Capital Improvement Plan software
  - Goal: Continue the development and maturation of the CIP software
    - Continued review of the software for updates that will enhance the current system, but at the same time make the process timelier and more predictable.

5. Recent Achievements

- Assessing
  - Completed the required 5-year revaluation of all property in the Town of Nantucket. This included both residential, commercial and personal property
- Treasury
  - Through the use of cash flow forecasting, the town has been able to take advantage of the current interest rate environment. The use of cash flow forecasting has enabled the town to invest in a timely manner and produce investment income that has far exceed expectations
- Finance/Accounting
  - Maintained the Aaa rating from Moody's during the most recent credit review. Nantucket is one of only 14 communities in the Commonwealth to have this rating.
    - The stable outlook reflects our expectation that the town's strong fiscal management will maintain a healthy financial position while continuing to address moderate long-term liabilities
    - Nantucket's available reserves are at an all time high at 72% of revenue as of the fiscal 2023 audited financials. This level is one of the highest of the 14 Aaa Massachusetts cities and towns and is above the Aaa national median of 62%
  - Unqualified opinion of the audit of the 2023 Financials

6. Challenges and Opportunities

- Challenges: Remote employees

- Opportunities:
  - Submission of the FY24 Financials (ACFR) to the GFOA for Certificate of Achievement in Financial Reporting.
  - Improvements to budget presentation through a more robust use of OpenGov.

7. Summary

- By enhancing the finance operations through the key projects mentioned we will be able to not only provide more efficient operations, but to continue to provide greater transparency to the residents.

- I would like to thank all the employees in the Finance Department for their dedication and efforts.

- Thank you to Town Administration and the Select Board for their continued support.

TOWN OF NANTUCKET, MASS
INCORPORATED 1671

FY 24 Budget

Salaries

ORG	OBJ	ACCOUNT DESCRIPTION	ORIGINAL APPROP	TRANFRS/ADJSMTS	REVISED BUDGET	YTD EXPENDED	ENCUMBRANCES	AVAILABLE BUDGET
1134	51100	SALARY, PERMANENT	910,671.40	-	910,671.40	703,697.95	-	206,973.45
1134	51300	OVERTIME	-	-	-	1,284.83	-	(1,284.83)
1134	51551	LABORERS UNION: CERTIFICATION	-	-	-	-	-	-
1134	51700	LONGEVITY PAY	6,305.52	-	6,305.52	3,227.11	-	3,078.41
1134	51961	MEDICARE P/R TAX	13,296.90	-	13,296.90	10,110.43	-	3,186.47
		TOTAL SALARIES 01134 ACCOUNTING	**930,273.82**	**-**	**930,273.82**	**718,320.32**	**-**	**211,953.50**
1141	51100	SALARY, PERMANENT	417,432.30	-	417,432.30	317,580.07	-	99,852.23
1141	51102	SALARY, TEMPORARY	1,800.00	-	1,800.00	-	-	1,800.00
1141	51300	OVERTIME	-	-	-	-	-	-
1141	51551	LABORERS UNION: CERTIFICATION	1,560.00	-	1,560.00	1,178.40	-	381.60
1141	51700	LONGEVITY PAY	12,573.00	-	12,573.00	10,053.18	-	2,519.82
1141	51961	MEDICARE P/R TAX	6,257.70	-	6,257.70	4,672.26	-	1,585.44
		TOTAL SALARIES 01141 ASSESSORS	**439,623.00**	**-**	**439,623.00**	**333,483.91**	**-**	**106,139.09**
1145	51100	SALARY, PERMANENT	389,096.60	-	389,096.60	316,289.47	-	72,807.13
1145	51300	OVERTIME	-	-	-	273.31	-	(273.31)
1145	51551	LABORERS UNION: CERTIFICATION	520.00	-	520.00	392.80	-	127.20
1145	51700	LONGEVITY PAY	4,203.68	-	4,203.68	2,966.12	-	1,237.56
1145	51961	MEDICARE P/R TAX	5,710.39	-	5,710.39	4,499.14	-	1,211.25
		TOTAL SALARIES 01145 COLLECTORS	**399,530.67**	**-**	**399,530.67**	**324,420.84**	**-**	**75,109.83**
1147	51100	SALARY, PERMANENT	370,575.50	-	370,575.50	277,728.33	-	92,847.17
1147	51551	LABORERS UNION: CERTIFICATION	-	-	-	-	-	-
1147	51700	LONGEVITY PAY	-	-	-	-	-	-
1147	51961	MEDICARE P/R TAX	5,373.35	-	5,373.35	3,867.35	-	1,506.00
		TOTAL SALARIES 01147 TREASURER	**375,948.85**	**-**	**375,948.85**	**281,595.68**	**-**	**94,353.17**
		TOTAL SALARIES ALL DEPARTMENTS	**2,145,376.34**	**-**	**2,145,376.34**	**1,657,820.75**	**-**	**487,555.59**

FY 24 Budget, continued

Operating Budget

ORG	OBJ	ACCOUNT DESCRIPTION	ORIGINAL APPROP	TRANFRS/ADJSMTS	REVISED BUDGET	YTD EXPENDED	ENCUMBRANCES	AVAILABLE BUDGET
1134	52070	TUITION	-	-	-	2,970.00	-	(2,970.00)
1134	52401	REP&MAINT:OFFICE EQUIP	-	-	-	-	-	-
1134	52404	REP&MAINT:BUILDING	-	-	-	-	-	-
1134	52416	COPIER	6,500.00	-	6,500.00	5,600.14	528.77	371.09
1134	53100	PROFESSIONAL SERVICES	212,000.00	-	212,000.00	120,232.66	1,284.00	90,483.34
1134	53402	COMM:POSTAGE	300.00	-	300.00	206.03	-	93.97
1134	54201	OFFICE SUPPLIES	12,800.00	-	12,800.00	9,045.84	76.36	3,677.80
1134	55101	BOOKS/SUBSCRIPTIONS	-	-	-	110.00	584.96	(694.96)
1134	55805	OTHER SUPPLIES	-	-	-	-	-	-
1134	57101	IN-STATE:MISC TRAVEL	3,500.00	-	3,500.00	19,299.14	6,034.26	(21,833.40)
1134	57103	IN-STATE:SEMINARS,PROF GA	5,000.00	-	5,000.00	4,422.12	-	577.88
1134	57201	OUT-STATE:GENERAL	5,500.00	-	5,500.00	1,136.23	1,680.46	2,683.31
1134	57301	DUES:PROFESSNL ORGANIZATN	1,000.00	-	1,000.00	617.00	-	383.00
1134	58501	ADD EQ:NEW EQUIP	6,500.00	-	6,500.00	151.51	-	6,348.49
1134	58502	ADD EQ:OFFICE FURNITURE	-	-	-	-	-	-
		TOTAL OP EXPENSES 01134 ACCOUNTING	**253,100.00**	**-**	**253,100.00**	**163,790.67**	**10,188.81**	**79,120.52**
1141	52403	REP&MAINT:VEHICLE	1,500.00	-	1,500.00	-	-	1,500.00
1141	52416	COPIER	1,500.00	-	1,500.00	1,091.41	-	408.59
1141	53100	PROFESSIONAL SERVICES	125,000.00	-	125,000.00	177,729.50	-	(52,729.50)
1141	53103	GENERAL:ADVERTISING	500.00	-	500.00	-	-	500.00
1141	54201	OFFICE SUPPLIES	3,000.00	-	3,000.00	1,038.78	42.84	1,918.38
1141	55101	BOOKS/SUBSCRIPTIONS	500.00	-	500.00	-	-	500.00
1141	57101	IN-STATE:MISC TRAVEL	5,000.00	-	5,000.00	-	-	5,000.00
1141	57103	IN-STATE:SEMINARS,PROF GA	3,000.00	-	3,000.00	2,154.94	-	845.06
1141	57301	DUES:PROFESSNL ORGANIZATN	350.00	-	350.00	75.00	-	275.00
1141	58501	ADD EQ:NEW EQUIP	1,000.00	-	1,000.00	-	-	1,000.00
		TOTAL OP EXPENSES 01141 ASSESSORS	**141,350.00**	**-**	**141,350.00**	**182,089.63**	**42.84**	**(40,782.47)**
1145	52416	COPIER	2,800.00	-	2,800.00	1,362.24	-	1,437.76
1145	52703	RENT/LSE:POSTAGE METER	3,500.00	-	3,500.00	3,978.77	-	(478.77)
1145	53100	PROFESSIONAL SERVICES	30,000.00	-	30,000.00	19,404.97	-	10,595.03
1145	53110	GENERAL:PRINTING	250.00	-	250.00	-	-	250.00
1145	53155	DEPUTY COLLECTOR FEES	-	-	-	-	-	-
1145	53402	COMM:POSTAGE	50,000.00	-	50,000.00	36,575.59	-	13,424.41
1145	53802	OTHER:DEEDS,PROBATES,REC	250.00	-	250.00	-	-	250.00
1145	54201	OFFICE SUPPLIES	5,000.00	-	5,000.00	1,568.82	-	3,431.18
1145	57040	CASH OVER/SHORT	-	-	-	83.62	-	(83.62)
1145	57101	IN-STATE:MISC TRAVEL	2,500.00	-	2,500.00	2,738.40	-	(238.40)
1145	57103	IN-STATE:SEMINARS,PROF GA	1,000.00	-	1,000.00	135.00	-	865.00
1145	57301	DUES:PROFESSNL ORGANIZATN	100.00	-	100.00	65.00	-	35.00
1145	57405	INS PREM:EMPLOYEE BONDS	2,500.00	-	2,500.00	975.00	325.00	1,200.00
1145	57803	OTHER:BANK CHARGES	-	-	-	-	-	-
		TOTAL OP EXPENSES 01145 COLLECTORS	**97,900.00**	**-**	**97,900.00**	**66,887.41**	**325.00**	**30,687.59**
1147	53100	PROFESSIONAL SERVICES	24,000.00	-	24,000.00	608.71	55.00	23,336.29
1147	53103	GENERAL:ADVERTISING	-	-	-	-	-	-
1147	53402	COMM:POSTAGE	-	-	-	8.80	-	(8.80)
1147	54201	OFFICE SUPPLIES	2,500.00	-	2,500.00	2,004.91	-	495.09
1147	57101	IN-STATE:MISC TRAVEL	2,500.00	-	2,500.00	364.75	546.30	1,588.95
1147	57103	IN-STATE:SEMINARS,PROF GA	2,000.00	-	2,000.00	2,287.59	-	(287.59)
1147	57301	DUES:PROFESSNL ORGANIZATN	300.00	-	300.00	115.00	-	185.00
1147	57405	INS PREM:EMPLOYEE BONDS	1,700.00	-	1,700.00	1,025.00	-	675.00
1147	57803	OTHER:BANK CHARGES	25,000.00	-	25,000.00	-	-	25,000.00
1147	58502	ADD EQ:OFFICE FURNITURE	-	-	-	-	-	-
		TOTAL OP EXPENSES 01147 TREASURER	**58,000.00**	**-**	**58,000.00**	**6,414.76**	**601.30**	**50,983.94**
		TOTAL EXPENSES - ALL DEPARTMENTS	**550,350.00**	**-**	**550,350.00**	**419,182.47**	**11,157.95**	**120,009.58**

STRATEGIC PLAN UPDATE

Environmental Leadership

Brooke Mohr, Select Board

Focus Area Leader:
Jeff Carlson, Natural Resources Director

Focus Area Team:
Christopher Lowe, Solid Waste Manager
Emma Morgan, Water Quality Specialist
Leah Hill, Coastal Resiliency Coordinator

Environmental Leadership Aspirational Statement

Nantucket residents and visitors share responsibility for the long-term sustainability of our beautiful island, and address the challenges of climate change, sea level rise and increasing energy demands. We recognize our stewardship of the land, air and water and work to ensure our community is resilient and self-sufficient. Other communities look to Nantucket to learn how to care for the natural environment.

Environmental Leadership

Goal 1:

Provide data-driven recommendations on island-wide solid waste management guided by principles of sustainability, with flexibility to adapt to emerging technologies.

Environmental Leadership

Goal 1 Strategy Update

- Focused on long-term, measurable landfill operations
- Draft RFP for new facility operator contract in progress
- Some challenges:
  - Waste streams
  - Leachate management
  - Food waste
  - PFAS

Environmental Leadership

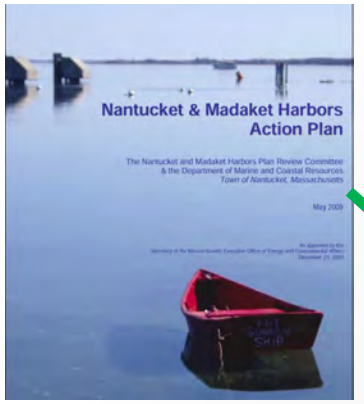
Additional Strategies/Activities of the Solid Waste Facility

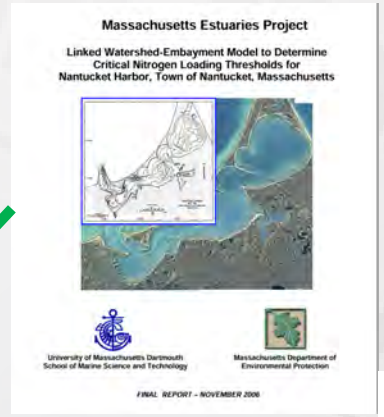
- Capping Plan
  - Waiting on MassDEP for guidance on final cap for Phase 1 unlined cells
  - Active cell 3A will not be closed until Cell 3B is constructed
- Leachate Frac Tank Replacement
  - Procurement underway – estimated completion Fall 2024
- Mixed waste management and tracking
- Pilot food waste composting program
  - Voluntary resident participation for food waste drop-off
  - Estimated start date of Spring/Summer 2024

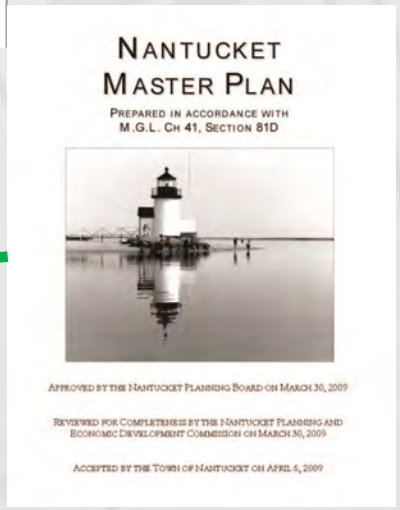
Environmental Leadership

Goal 2:

Implement the island-wide, long-term water quality management plan which addresses ponds, harbors, stormwater, and wastewater with specific ways/methods to measure improvement.







TOWN OF NANTUCKET
Natural Resources Department

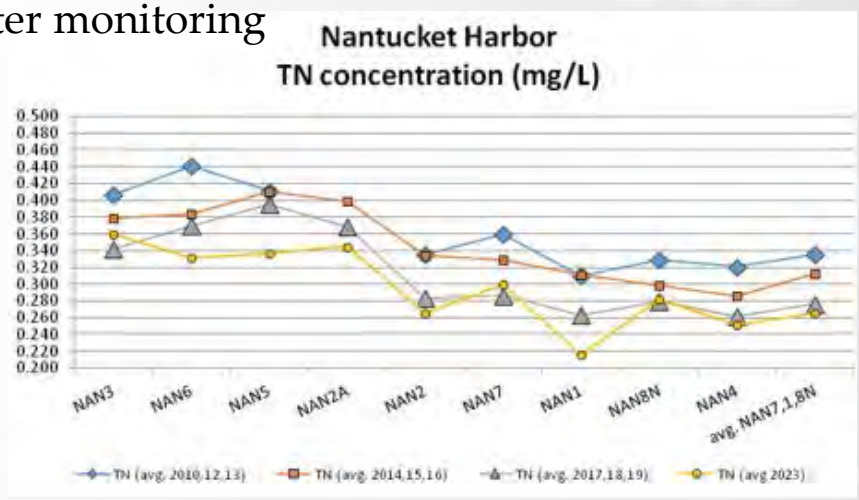
Water Resource Management Plan

Adopted by Select Board in 2023

Environmental Leadership

Goal 2 Strategy Update

- Strategies to reduce controllable load
  - Wastewater, Fertilizers, Overland Flow
- Comprehensive data collection – First funded in FY'24 Capital Funding
  - Eelgrass, Bay Scallop and Whelk Surveys
  - TMDL Monitoring
  - Groundwater monitoring
  - Stormwater monitoring



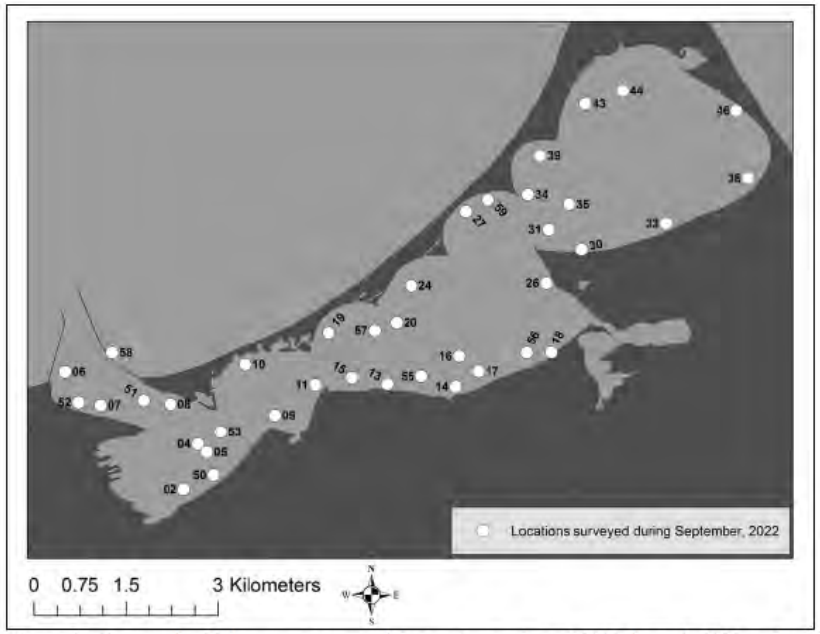
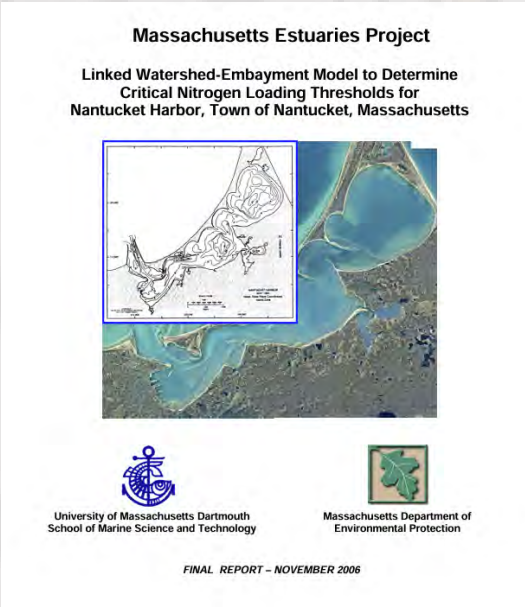


Figure 2. Depicts the 39 locations surveyed during September of 2019 through 2022 within Nantucket Harbor, MA along with the identifying numbers of each location.

Environmental Leadership

- Action driven by data
  - All programs to have a data component
    - Pond openings, benthic communities, harmful algal blooms
- Current information
  - Update Estuary Plans
    - Nantucket Harbor - Underway
  - Baseline data establishment
    - Yearly funding need and approved for FY ’24 and requested FY ‘25
- May require additional staffing/resources - sampling



Environmental Leadership

Goal 3:

Incorporate the recommendations of the Coastal Resiliency Plan in conjunction with other capital planning.

Environmental Leadership

Goal 3 Strategy Update

- Coastal Resiliency Plan (CRP) Adopted by Select Board
  - 15 of 40 recommendations/projects completed or in progress
  - 13 of 40 recommendations not scheduled until 2030 or after
- Integrate with other Town plans
  - Hazard Mitigation Plan, Master Plan, Open Space Plan, Transportation Plan
- Use the CRP recommendation timeline and priority ranking within the CRP to develop a coastal resilience capital plan
  - Risk updates will be considered and may shift timeline and priority
- Enhance community outreach
  - Focus on environmental justice communities
- Foster public private partnerships for resiliency projects
  - Coastal Resiliency Districts
  - Other funding models

Environmental Leadership

Create a tool to apply resiliency principles to other capital projects
Example of similar tool from Coastal Resiliency Plan

Environmental Leadership

- In summary the focus area drivers:
  - Data driven decisions
  - Transparent, active management
  - Success defined by measurable results

“The oldest task in human history: to live on a piece of land without spoiling it.”

-Aldo Leopold

2024 Special Town Meeting Timeline
as of 05/10/24 - DRAFT
Endorsed by SB:

Date	Time	Activity
May - Jul		SB discussions at Wed SB meetings re: STR warrant article(s)
Wed, May 15	5:30pm	SB schedules STM
Wed, May 22	2pm - 4pm	Town Counsel available for citizen warrant article consultation (via Zoom)
Thurs, May 23	9am - 11am	Town Counsel available for citizen warrant article consultation (via Zoom)
Rest of May, Jun	5:30pm	SB reviews warrant articles
Thurs, May 30	4pm	Warrant closes to citizen submittals (100 signatures required)
Thurs, Jun 6		Citizen zoning articles transmitted to Planning; all citizen articles rec'd forwarded to Town Counsel
Wed, Jun 26	5:30pm	SB adopts warrant* with any ballot questions; formalize request to Secy of State office for local ballot at Nov Presidential election
		**zoning articles must be in final form for Pl Board hearings*
Mon Jul 8		Send warrant issuance notice to newspaper and FC public hearing notice to paper (for 7/11 issue)
TBD	TBD	Planning Board hearings re zoning articles
TBD	TBD	Planning Board motions submitted to Town Administration & FinCom
Thurs, Jul 11		Warrant published; FC public hearing notice published
Mon, Jul 15	4pm	FinCom meet to review warrant articles
Tues, Jul 16	4pm	FinCom meet to review warrant articles
Thurs, Jul 18	4pm	FinCom public hrg on warrant articles
Mon, Jul 22	4pm	FinCom meet to review warrant articles IF needed
Tues, Jul 23	4pm	FinCom adopts motions to articles
Mon, Jul 29	4pm	Joint SB-FC-PB meeting re FC and PB motions [is this needed?]
Wed, Aug 7	5:30pm	SB review/adoption of recs/comments to warrant articles/motions (1 review only not 2)
Thurs, Aug 15		Warrant with motions sent to printer (2 weeks minimum needed to print & mail)
TBD	8am - 8pm	Voter Registration
Thurs, Aug 29		Warrant with motions mailed out to voters
Thurs, Sept 12	1pm	FinCom reviews Technical Amendments
Thurs, Sept 12	2pm	pre-ATM conference with Moderator -- ZOOM
TUES, SEPT 17	**5:00pm**	**STM**
NO CONTINUATION		
Tues, Nov 5	7am - 8pm	Local Election & Presidential
NOTES:		
Per Charter, the warrant with motions must be mailed out to voters 14 days prior to the TM/must allow for addl time to get warrants to voters in time		
No FinCom TM Info Session		
Need to confirm Secy of State Election Notif Date		
Planning Board hrgs TBD		
No SB Mtgs: 5/29, 6/19, 7/3, 7/31, 8/14, 8/28, 9/4		

2024 Special Town Meeting Timeline
as of 05/10/24 - DRAFT
Endorsed by SB:

No advertising of Cit Art submittal dates		
Quorum reqs for financial articles		
Holidays/Vacations:		
Thurs, Oct 3, 2024	Rosh Hashanah	
Sat, Oct 12, 2024	Yom Kippur	
Mon, Oct 14, 2024	Indigenous People's Day	
Tues, Nov 5, 2024	Election Day	
Mon, Nov 11, 2024	Veterans' Day	
Thurs, Nov 28, 2024	Thanksgiving	

Preliminary Outline #1 for 2024 Special Town Meeting Warrant
For 05/15/24 SB review
As of 05/11/24
NOTE: Numbering & Order is NOT FINAL

Select Board Sponsored Articles

ZONING BYLAW & GENERAL BYLAW AMENDMENTS
SHORT-TERM RENTAL

REAL ESTATE RELATED (with potential Appropriation)
- 31 Western Ave (under consideration - TBD)
- Possible real estate acquisition in connection with Somerset Sewer Extension pump station

APPROPRIATION*
- DPW Facility – Construction
- Potential for Surfside Area Transportation improvements - supplemental

BALLOT QUESTIONS
- debt exclusion for DPW

OTHER
- possible "Opt in" for State Housing transfer fee (if that legislation has progressed)

CITIZEN ARTICLES
Submittal deadline Thurs, May 30

***Appropriations at STMs require a quorum of 5% of registered voters**

DRAFT