

SELECT BOARD

Minutes of the Meeting of September 25, 2024. The hybrid meeting took place in person at the Public Safety Facility Community Room at 4 Fairgrounds Road; and, via remote participation using Zoom Webinar. Members of the Board present were Brooke Mohr, Thomas Dixon, Matt Fee, and Dr. Malcolm MacNab. Dawn Holdgate was not present.

I. CALL TO ORDER

Chair Mohr called the meeting to order at 5:44 PM following a meeting of the County Commissioners.

II. SELECT BOARD ACCEPTANCE OF AGENDA

The agenda was accepted as posted.

III. ANNOUNCEMENTS

Chair Mohr asked the audience not to cross talk and have side conversations in the room.

Town Manager C. Elizabeth Gibson reviewed the Announcements.

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

2. Town Council Study Committee to Hold Public Forums on Proposed New Town Council Form of Government on Saturday, October 5, 2024 at 10:00 AM and Thursday, October 10, 2024 at 5:30 PM; Both Meetings to be Hybrid with In-Person at the Public Safety Facility Community Room at 4 Fairgrounds Road and Remote Via Zoom Webinar.

3. Select Board Announcements/Comments.

Chair Mohr provided an update on proposed National Oceanic and Atmospheric Administration's (NOAA) North Atlantic Right Whale Vessel Speed Restrictions, noting that most recently the State's Coastal Zone Management (CZM) agency formally objected to the proposed rule citing the Town of Nantucket's (and others') concerns regarding the lack of documented whale sightings in Nantucket Sound, the economic impacts to the island, safety concerns for all vessels, and the general lack of information supplied by NOAA to support the rule. CZM also incorporated into its objection letter the Town's request that Nantucket Sound be exempted from the proposed rule.

Chair Mohr stated that as advised by Town Counsel, the Town's Code of Conduct for Committees, Boards and Commissions, should not be interpreted to allow for disciplinary action against board members when they are engaged in private speech, and that any disciplinary action that the Select Board might pursue would raise significant Constitutional concerns, given the protections afforded individuals under the First Amendment as well as due process protections enshrined in the Constitution.

Chair Mohr stated that the Select Board has engaged Cultural Heritage Partners (CHP), the Town's special counsel for offshore wind concerns, to pursue legal claims arising from the July 13, 2024 Vineyard Wind/GE Vernova wind turbine blade failure, as well as subsequent and ongoing resultant damages and risk. CHP has also been engaged to assist the Town in responding to three emerging wind projects in addition to the existing Vineyard Wind project.

She added that while the Board is open to public comment concerning offshore wind issues, they will not be answering questions concerning the substance of settlement-related communications with Vineyard Wind

or GE Vernova, as that could compromise the Town's negotiating position and adversely affect our ability to obtain the best outcome possible for Nantucket and its residents, businesses, and visitors. In the event an agreement is reached, it would be voted and ratified in open session and made public. Regarding the Good Neighbor Agreement, conversations are ongoing and active with Vineyard Wind's attorneys concerning issues and supplemental protections that the Town would like Vineyard Wind to address, and this protection is intended to promote open and honest discussion during dispute resolution. Regarding the turbine blade failure, the Board continues to research potential damages to the Town and its economy and have secured an independent expert to assist us with this valuation. As far as other wind farms, Ms. Mohr stated that there are several other offshore wind farms on the horizon, summaries of which are listed on the Town's offshore wind website: SouthCoast Wind, Revolution Wind 2 (formerly Bay State Wind) and Beacon Wind. As the Board has explained previously, the Town continues to monitor these projects with the assistance and advocacy of CHP. She stated that the Town will continue to participate in ongoing and upcoming permitting reviews by the Bureau of Ocean Energy Management (BOEM) and will appeal BOEM's decisions if necessary and if in the Town's best interests, adding that every single document the Town submits to BOEM or other entities advancing our concerns and interests is posted on the website, as well as contact information for state and federal officials, whom we encourage residents and property owners to contact to express their concerns.

Chair Mohr provided an update on the Community Impact Fee legislation that was addressed at the Board's September 18, 2024 meeting, noting that the update involves the question of whether the community impact fee must be remitted to the Department of Revenue for all rental contracts that commence on or after October 1, 2024; or, is only applicable to rental contracts signed on or after October 1, 2024. She explained that after the Board had its discussion last week the Department of Revenue (DOR) issued a statement in response to an inquiry through "Mass Connect" in which the DOR states that the community impact fee is effective October 1, 2024, irrespective of when the rental contract was signed. She recommended that the Town inform local short-term rental operators of the DOR's position on this matter because the DOR has the statutory authority to administer G.L. c. 64G, the governing law. She added that operators should, therefore, comply with the DOR directive by collecting and remitting the community impact fee to the DOR on all rental contracts that commence on or after October 1, 2024. She said that if any operator wishes to contest this guidance, they can do so directly to the DOR through Mass Connect.

Chair Mohr made a statement about a recent visit to the Island from the U.S. Immigration and Customs Enforcement Agency in connection with several arrests of individuals with outstanding arrest warrants: "The Town of Nantucket Select Board and municipal administration are aware of the recent arrests made by U.S. Immigration and Customs Enforcement (ICE) on the island. We recognize that this activity may have been unsettling to many of our residents. It is our understanding that the ICE action was not random, but targeted toward the arrest of four known individuals who committed violent crimes on Nantucket. Let me be perfectly clear – we are committed to the safety and well-being of members of our community, regardless of their immigration status, and are relieved that these offenders have been apprehended by the appropriate authorities and are no longer a threat to our community. We stand in support of the victims of these traumatic crimes and their families, and the Town will make available any resources and counseling services they might need.

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

Chair Mohr said there were no follow-up comments at this time.

V. PUBLIC COMMENT

Vallorie Oliver asked if there will be public comments allowed about the last agenda item. Chair Mohr said "yes".

Gail Holdgate spoke on a citizen warrant article (Article 36) from the 2024 annual town meeting.

Barbara Burgo spoke on the same citizen warrant article from the 2024 annual town meeting.

Megan Perry commented on the September 17, 2024 special town meeting.

Ms. Perry commented on several pending contracts involving residential housing leases at the Richmond development.

Campbell Sutton commented on the September 17, 2024 special town meeting.

Ms. Sutton spoke on the citizen warrant article referenced by Ms. Holdgate and Ms. Burgo.

Meridith Lepore spoke on the September 17, 2024 special town meeting and subsequent social media posts made by an article sponsor.

VI. NEW BUSINESS

There was no new business.

VII. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

Mr. Fee moved approval of items VII 1 – 3; seconded by Mr. Dixon; so voted 4-0.

1. Approval of Minutes of September 18, 2024 at 5:30 PM.

2. Approval of Payroll Warrants for September 15, 2024.

3. Approval of Treasury Warrants for September 25, 2024.

4. Approval of Pending Contracts for September 25, 2024 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference. Housing Director Kristie Ferrantella explained several residential leases on the Pending Contracts list. Mr. Fee asked about the rents. Ms. Ferrantella responded. Dr. MacNab asked about a contract with Hooper Marine. Natural Resources Director Jeff Carlson answered. Ms. Perry asked about the funding for the leases explained by Ms. Ferrantella. Ms. Ferrantella responded. Mr. Fee asked about a contract with SMRT for a seasonal dorm project. Ms. Gibson responded. Mr. Fee asked about a contract for replacement turf equipment with Turf Products Corp. Public Works Director Andrew Patnode answered. Mr. Fee moved approval of the pending contracts as presented; seconded by Dr. MacNab; so voted 4-0.

VIII. CITIZEN/DEPARTMENTAL/COMMITTEE REQUESTS/REPORTS

1. Applicant Introduction/Review of Applications and Appointments to Conservation Commission, Pursuant to Select Board Committee Appointment Policy. Applicants RJ Turcotte and Grant Sanders spoke on their applications. Mr. Fee disclosed that Mr. Sanders is his brother-in-law. By paper ballot: RJ Turcotte received votes from Chair Mohr, Mr. Dixon, Mr. Fee and Dr. MacNab. So voted to appoint Mr. Turcotte.

2. Request for Waiver of Sewer Connection Permit Fee and Sewer Capacity Fees for Covenant Lot Located at 10 Field Avenue (Lot B on Plan No. 2024-4). Ms. Ferrantella reviewed the request, noting that the request is in line with the Board's Sewer Fee Waiver Policy and the recommendation is to approve a 50% Sewer Connection Permit and 100% Capacity Fee waiver, consistent with Town policy and past practice, as the property is restricted to 150% Area Median Income (AMI). Mr. Fee moved approval as recommended; seconded by Dr. MacNab; so voted 4-0.

IX. REAL ESTATE MATTERS

1. Request for Approval and Execution of Purchase and Sale Agreement, Quitclaim Deed and Settlement Statement of Town-owned Yard Sale Parcel Known as Parcel A, Clifford Street and Pocomo Avenue as Shown on Plan of Land Entitled "Fee Taking Plan, Plan to Acquire Land for General Municipal Purposes in Nantucket, Mass, Prepared for Town of Nantucket, Clifford Street & Pocomo Avenue," Dated January 5, 2011, Prepared by Charles W. Hart and Associates, Inc. and Recorded with Nantucket County Registry of Deeds as Land Court Plan No. 34745-B, Pursuant to Vote on Article 77 of 2010 Annual Town Meeting. Real Estate Specialist Tracy MacDonald introduced the item. Mr. Fee moved approval as presented; seconded by Mr. Dixon; so voted 4-0.

X. TOWN MANAGER'S REPORT

1. Review/Update of Municipal Yard Sale Program. Ms. MacDonald provided a comprehensive overview of the yard sale program since 2003, using documents contained in the Board's agenda packet and the attached memo. Mr. Fee asked if there is a list of outstanding parcels. Ms. MacDonald responded. Some discussion followed. Mr. Fee asked who decides how the parcels are prioritized and spoke on the expectations of those submitting warrant articles to Town Meeting. Ms. MacDonald responded. Some discussion followed. Mr. Fee spoke on the history and intent of the "One Big Beach" program. Chair Mohr suggested that Town real estate priorities take precedence over any citizen-driven yard sale parcels. The Board thanked Ms. MacDonald for the presentation.

2. Update on Short-Term Rental Registration Program. Public Health Director Roque Miramontes provided the update and reviewed numbers of local registrations vs state registered, noting far fewer local registrations have been recorded. Mr. Miramontes explained the reasoning behind this, noting the systems are different. He also reviewed an issue with the local fee and some perceived confusion in the local regulations. Dr. MacNab said the registration program is not a Health issue and should be re-examined as to being located with another department. Rebek Duham spoke on the need to publicize the registration program deadline and elaborated on some of the difficulties with the program with respect to its registration timing requirements. Kathy Baird commented on the program.

3. Update on Proposed Department of Public Works Facility. Public Works Director Andrew Patnode reviewed the presentation contained in the Board's agenda packet. John Comeau of Weston and Sampson, the Town's designer for the project, assisted with the presentation. Mr. Patnode noted that discussions for the location of a facility for the Nantucket Hunting Association (NHA) at the same site were held with the NHA most of the spring and summer; however, the NHA most recently declined to be a part of the project. He noted issues with mitigation and the need to avoid segmentation with more than one project. Steven Holdgate, of the NHA, spoke on the site having been initially identified for its facility, expressed appreciation for the time of both parties, the NHA and the Town, in meeting to work on a shared plan. He said that the site originally intended for the NHA facility was reduced due to increased Town priorities and indicated understanding for the Town's needs. He spoke on the history of the NHA project, including

lawsuits. He said the “deal breaker” was that in the NHA’s view, there wasn’t a guarantee that they would ever be able to construct their project as it was dependent upon the DPW facility being approved and constructed. Chair Mohr expressed appreciation as well for the time of all involved in the discussions for a joint project. She acknowledged the risk for municipal projects. John Stover, member of the NHA, spoke on the discussions as well and noted a disagreement he has with the representation of the discussions. Chair Mohr responded. Discussion followed as to the timing of the required conservation restriction, the DPW facility and the NHA’s facility. Chair Mohr outlined the timeline that was discussed during the meetings between the parties and said that giving the NHA a solid date to move forward is not possible because of the permitting constraints. Mr. Holdgate spoke on this and expressed frustration with the timing, the permitting, and the Town’s priorities. He questioned why the Town could not proceed with a solid plan for permitting its facility and give the NHA a date to start constructing their facility. Chair Mohr and Mr. Patnode addressed this and further explained the permitting issues. Mr. Stover spoke, again, about the frustration of the NHA with not being able to have a date to start its facility. Discussion followed as to what could happen if the DPW facility is not approved. Mr. Fee said that both parties need to be aligned on the DPW facility. Dr. MacNab concurred. Discussion continued on the various potential outcomes. Matthew Peel said he thinks the DPW facility will have trouble being approved without the NHA facility. Mr. Fee asked if there is an agreement that can be reached. Mr. Patnode re-emphasized the amount of time that has been spent with the NHA on this issue and the importance of maintaining a timeline for the DPW facility, otherwise the cost will continue escalating. Chair Mohr closed the discussion for the time being.

4. September 17, 2024 Special Town Meeting Follow-up. Ms. Gibson reviewed the follow-up actions to be undertaken, using the document in the Board’s agenda packet. Mr. Fee commented on the need for a “broad coalition” to agree, in order for a short-term rental article(s) to pass. Mr. Dixon commented on a short-term rental subgroup that was meeting prior to the special town meeting to try to come to a consensus and he hopes it could lead to fruitful discussions going forward. Chair Mohr commented on the dynamics of compromise with respect to this issue.

5. Monthly Town Management Report. Ms. Gibson provided the monthly management report, using the document contained in the Board’s agenda packet.

XI. SELECT BOARD’S REPORTS/COMMENT

1. Announcement of Select Board Executive Session Vote Taken on September 12, 2024 to Approve Cultural Heritage Partners Special Counsel Engagement Letter; Update on Strategies for Turbine Blade Event Follow-up. Chair Mohr reiterated the statement she made at the beginning of the meeting on this item. Vallorie Oliver spoke against offshore wind farms in general and expressed frustration about not being included in discussions about future wind farm projects and the Vineyard Wind blade issue, she also spoke against the engagement letter. Veronica Bonnet asked if other law firms were explored. Chair Mohr explained that part of the contract engages an environmental law firm. Some discussion followed as to public involvement with any offshore wind farm decisions or discussions the Board might be having. Chair Mohr said that her priority is to ensure that communities like Nantucket be protected from situations such as the blade failure, despite the federal and state regulatory environment. She acknowledged that some members of the public might disagree with this. She added that her position is not to spend significant community tax dollars on something that has a low likelihood of success. Dr. MacNab concurred. Chair Mohr clarified Cultural Heritage Partners role with future offshore wind farms.

2. Committee Reports.

Mr. Fee reported out on a Coastal Resilience Advisory Committee meeting. Some discussion followed about minute taking and the use of AI. Mr. Dixon agreed this is something to keep an eye and is evolving.

XII. ADJOURNMENT

Mr. Fee moved adjournment at 9:04 PM; seconded by Dr. MacNab; so voted 4-0.

Approved the 2nd day of October, 2024

**SELECT BOARD
SEPTEMBER 25, 2024 – 5:30 PM
PSF COMMUNITY ROOM, 4 FAIRGROUNDS ROAD
AND REMOTE PARTICIPATION VIA ZOOM WEBINAR
NANTUCKET, MASSACHUSETTS**

List of documents used at the meeting:

- III. 3. Updated memo from Town Counsel re: STR Community Impact Fee
- VII. 1. Draft minutes of 9/18/2024
- VII. 4. Pending Contracts spreadsheet
- VIII. 1. Conservation Commission membership/applicant list; ConCom applications; Committee Appointment Process
- VIII. 2. AIS re: Sewer Waiver request for 10 Field Ave, Lot B; Email from David Buckley; Qualified Purchaser's Certificate; Certificate of Compliance; Deed; Plan No. 2024-4; Policy for Sewer Fee Waiver Requests
- IX. 1. AIS re: Parcel A, Clifford St & Pocomo Ave; Purchase & Sale Agreement; Deed; Article 77 of 2010 ATM; Settlement Statement; Land Court Plan No. 34745-B; Coastal Resilience Evaluation; GIS map - 52 Pochick Ave
- X. 1. Yard Sale Procedures Checklist; 2024 Yard Sale Conveyances
- X. 2. Short-Term Rental Registration Process Update
- X. 3. DPW Facility Update presentation
- X. 4. 9/17/2024 STM Follow-up
- X. 5. Town Management Report