

Town and County of Nantucket Select Board • County Commissioners

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



16 Broad Street
Nantucket, Massachusetts 02554

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

C. Elizabeth Gibson
Town & County Manager

***AGENDA FOR THE MEETING OF THE
SELECT BOARD
OCTOBER 16, 2024 - 5:30 PM
PSF COMMUNITY ROOM, 4 FAIRGROUNDS ROAD
AND REMOTE PARTICIPATION VIA ZOOM WEBINAR
NANTUCKET, MASSACHUSETTS***

******AMENDED OCTOBER 12, 2024******

******AMENDED OCTOBER 15, 2024******

YOU TUBE LINK FOR VIEWING ONLY:

<https://youtube.com/live/Q2cQglZvUX4>

ZOOM WEBINAR REGISTRATION LINK TO VIRTUALLY ATTEND MEETING:

https://us06web.zoom.us/webinar/register/WN_9IMlft_DTaWw7VeB4X4sVQ

I. CALL TO ORDER

II. SELECT BOARD ACCEPTANCE OF AGENDA

III. ANNOUNCEMENTS

1. The Select Board Meeting is Being Audio/Video Recorded.
2. May 3, 2025 Annual Town Meeting Warrant Open for Citizen Warrant Article Submittals through November 18, 2024 at 4:00 PM. Citizen Warrant Article Guide: <https://www.nantucket-ma.gov/DocumentCenter/View/49076/Guide-to-Preparing-a-Citizen-Warrant-Article-PDF>.

Town Counsel will be Available for Citizen Warrant Article Consultation on Wednesday, October 16, 2024 from 10:00 AM - 12:00 PM; and Thursday, October 17, 2024 from 4:00 PM - 6:00 PM via Zoom. Contact TownManager@nantucket-ma.gov for Zoom links.

3. Select Board Announcements/Comments.

IV. FOLLOW-UP ON PUBLIC COMMENT QUESTIONS FROM PRIOR SELECT BOARD MEETINGS

1. Response(s) to Public Comment Questions from October 9, 2024 Select Board Meeting.

V. PUBLIC COMMENT*

VI. NEW BUSINESS*

VII. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

1. Approval of Minutes of October 7, 2024 at 3:00 PM; October 9, 2024 at 5:30 PM.
2. Approval of Payroll Warrants for October 13, 2024.
3. Approval of Treasury Warrants for October 16, 2024.

VIII. CITIZEN/DEPARTMENTAL/COMMITTEE REQUESTS/REPORTS

1. Sustainability Program Coordinator: Update on Sediment Transport Study and Dredge Plan Development.
2. ~~Selection of Independent Firm for Review of African Meeting House Vandalism Investigation, Pursuant to Vote on Article 36 of 2024 Annual Town Meeting (Non-Binding) (Continued from October 9, 2024; Tabled).~~
3. Housing Office: Request for Acceptance of Deed and Approval and Execution of Settlement Statement for 19A First Way.
4. Request for Waiver of Town Noise Bylaw for 3rd Sewer Force Main Project - Road Reconstruction on Surfside Road from Sparks Avenue to Fairgrounds Road from 4:00 PM to 5:00 AM, October 21, 2024 to November 29, 2024.
5. ~~Planning and Land Use Services (PLUS): Master Plan Update.~~

IX. PUBLIC HEARINGS

1. Public Hearing to Consider Amendments to Town Regulations Chapter 260 (Fishing and Shellfishing), Section 4.29 (Bay Scallops), Subsection (I), to Allow the Select Board to Have the Ability to Raise or Lower the Bushel Limit for Commercial Scallopers if Surveys Indicate an Alteration is Needed, Pursuant to MGL Chapter 130, Section 73 and Chapter 122-5 of the Code of the Town of Nantucket.

X. TOWN MANAGER'S REPORT

XI. SELECT BOARD'S REPORTS/COMMENT

1. Discussion Regarding Community Impact Fee Adopted Pursuant to Article 3 of November 7, 2023 Special Town Meeting (Acceptance of Massachusetts General Law: Adoption of Community Impact Fee on Professionally Managed Short-Term Rentals).
2. Review and Discuss Open Meeting Law Complaint Filed by Meghan Glowacki and Proposed Response Prepared by Town Counsel.
3. Committee Reports.

XII. 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

Responses to Public Comment Questions* from October 9, 2024 Select Board Meeting
*questions only

1. Megan Perry: asked that the Select Board schedule an agenda item relating to alternative uses of the Surfside Crossing property.

Answer: At the October 9th meeting during item III. 8a (Select Board Announcements/ Comments - Response to October 2, 2024 Public Comments Regarding Surfside Crossing 40B), Chair Brooke Mohr noted that Ms. Perry had requested an agenda item pertaining to alternative public uses of the privately owned Surfside Crossing property. She said that she and the Vice Chair discussed this and decline the request because it would be inappropriate to discuss the use of public uses of private property unless requested by the property owner.

2. Burton Balkind:
 - a) Where did the 3-minute Public Comment time limit originate?

Answer: The Town's current Agenda Protocol was adopted by the Select Board at a public meeting after much discuss and debate, and it has been in effect now for a number of years. It states that each speaker during the Public Comment portion of the meeting is limited to speaking for 3-minutes. This limitation was inserted in order to balance the interests of the public to have an opportunity to address matters of concern to the Select Board and the need of the Select Board to conduct the important business of the Town in a reasonable period of time each week. Moreover, as is often the case, if a speaker raises an important issue that, in the judgment of the Chair, requires more time for discussion, the item can be placed on a future agenda for discussion and possible action in compliance with the Open Meeting law, thus affording citizens ample opportunity to express their concerns, but give all interested parties the opportunity to attend a future meeting and provide all points of view.

The 3-minute limit is intended to facilitate orderly and efficient public comment periods at meetings of Town public bodies. It protects the ability of the residents of Nantucket, and other persons, to provide feedback or information to the Select Board regarding matters of public interest, Town initiatives, operations, services, and programs. To allow speakers a fair opportunity to address the Select Board , and to ensure the Select Board may accomplish its stated business in an efficient manner, the 3-minute limit seeks to ensure compliance with the Open Meeting Law and meet other legal and constitutional obligations.

In reviewing First Amendment concerns, the United States Supreme Court has established that public bodies may place reasonable time, place and manner restrictions on the right of citizens to exercise their First Amendment rights. The 3-minute limit facilitates orderly and peaceable public comment periods at meetings of elected and appointed public bodies of the Town and carries out their First Amendment obligations to the public.

- b) When will Wiggles Way be habitable? Can you explain the cost overruns and how much the costs have changed from the original cost estimate?

Answer: The development has experienced a delay due to unforeseen circumstances involving the construction manager, which has impacted the project timeline. Housing Nantucket, the developer of the project, is working diligently to get things back on track. The original land development agreement was set at \$6,750,000. However, after three change orders—driven by design modifications required by the HDC and Planning Board, along with rising construction costs and commodity price increases—the current agreement stands at \$12,779,000.

3. Linda DeRensis: What is the total dollar amount in regard to the contract that the Town was going to be paying the developers [of Surfside Crossing]? What was the total amount that the developer was requesting?

Answer: The “options contract” proposed by the developers of Surfside Crossing did not include a specific price because the cost of the deed restriction would be based on the eventual sales price of the units. Since that information is not yet available, no exact dollar amount was determined or requested. Just to be clear, this was a proposal that never reached the point of being considered for adoption.

Link for Harbors Sediment Transport Study and Dredge Plan to play the animations and see the model examples run:

<https://nantucket-ma.gov/DocumentCenter/View/49073/Nantucket-Harbors-Sediment-Transport-And-Dredge-Plan-September-2024>



Town of Nantucket

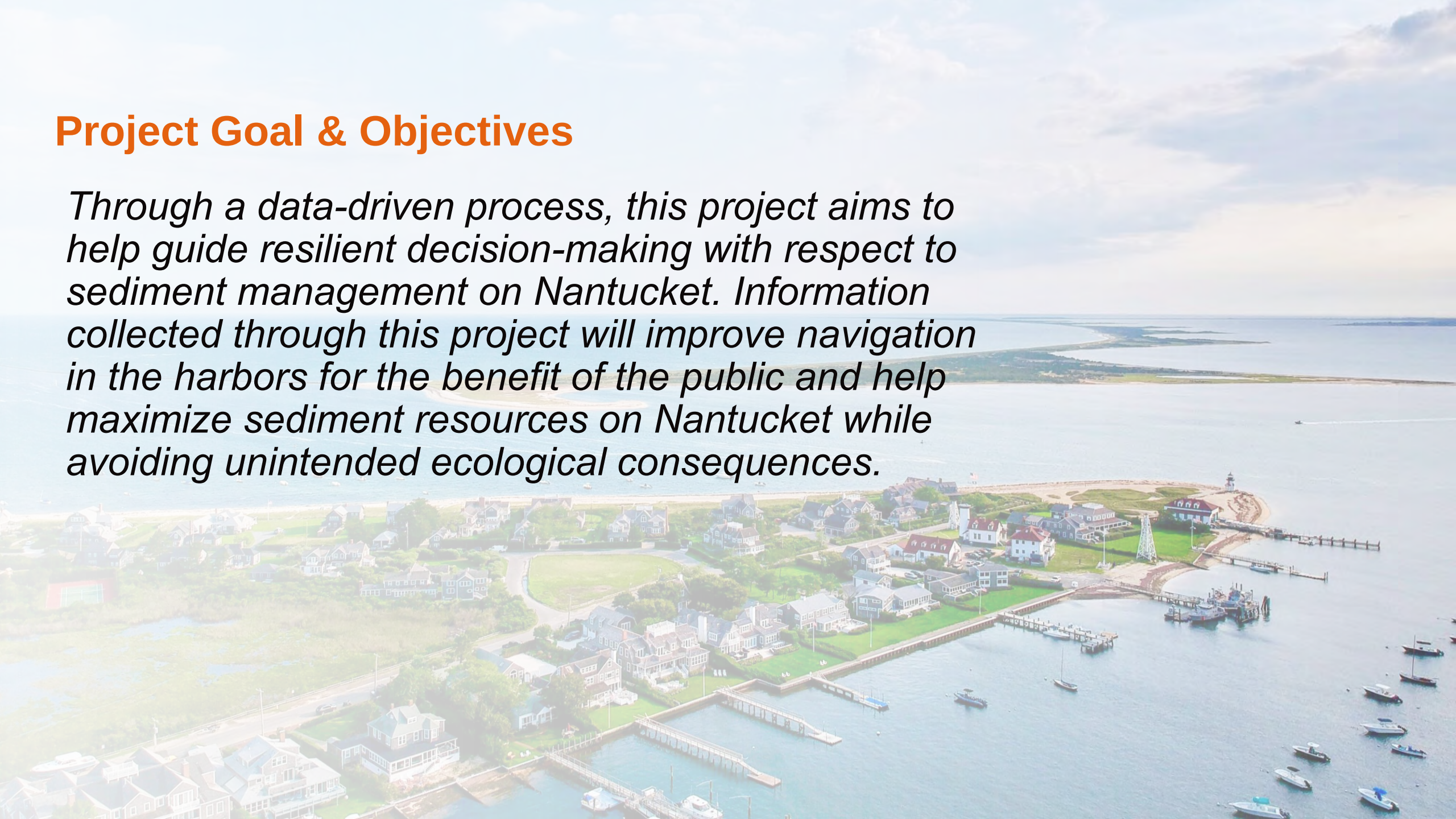
Nantucket Harbors Sediment Transport and Dredge Plan

September 2024

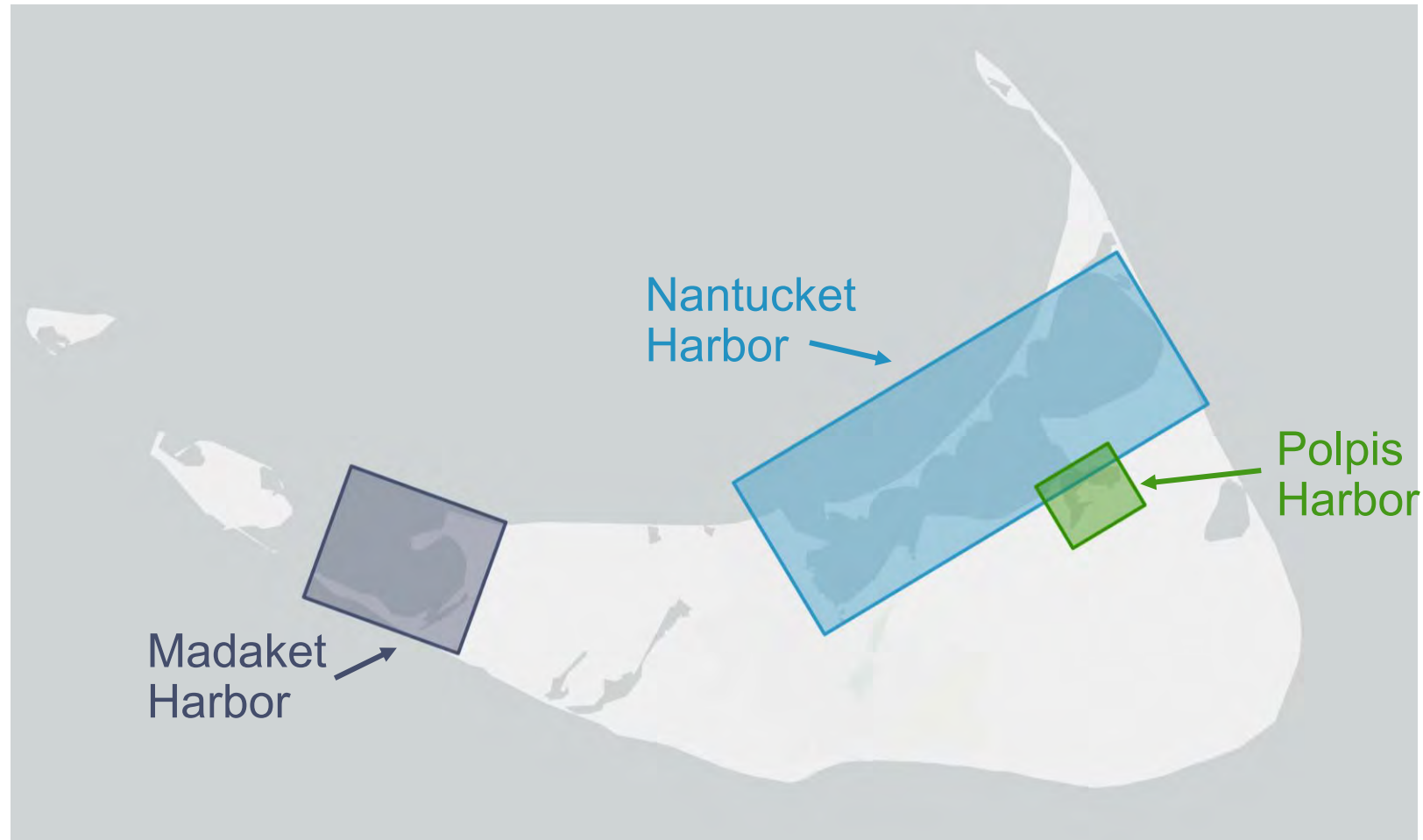
Committee Briefing

Project Goal & Objectives

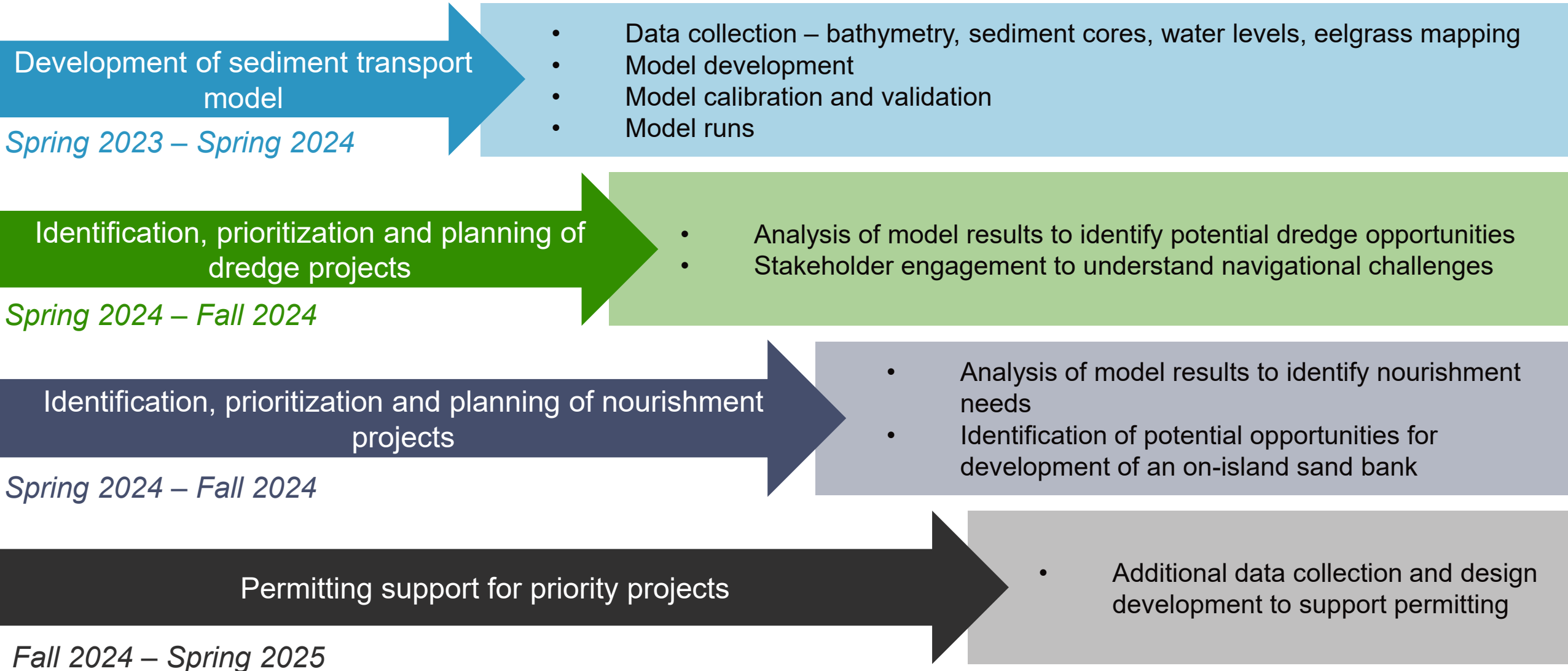
Through a data-driven process, this project aims to help guide resilient decision-making with respect to sediment management on Nantucket. Information collected through this project will improve navigation in the harbors for the benefit of the public and help maximize sediment resources on Nantucket while avoiding unintended ecological consequences.



Project Area(s)



Project Tasks



Data Collection

Overview of Data Collection Efforts



Eelgrass Mapping

- For study areas + Tuckernuck to provide island-wide eelgrass habitat map
- Desktop analysis using NearMaps Imagery collected in mid-April 2023



Bathymetric Survey

- Review of existing data completed to identify survey needs
- Survey conducted May 2023 using single beam transducer
- Accuracy within ~ 0.1ft



Water Level Monitoring

- Water level loggers deployed at 3 representative locations – Upper Harbor, Polpis Harbor, Madaket Harbor
- One month of data collection



Sediment Sampling

- 12 sediment cores
- 10 grab samples
- Sediment largely suitable for beneficial reuse

Model Development

USACE Coastal Modeling System (CMS)

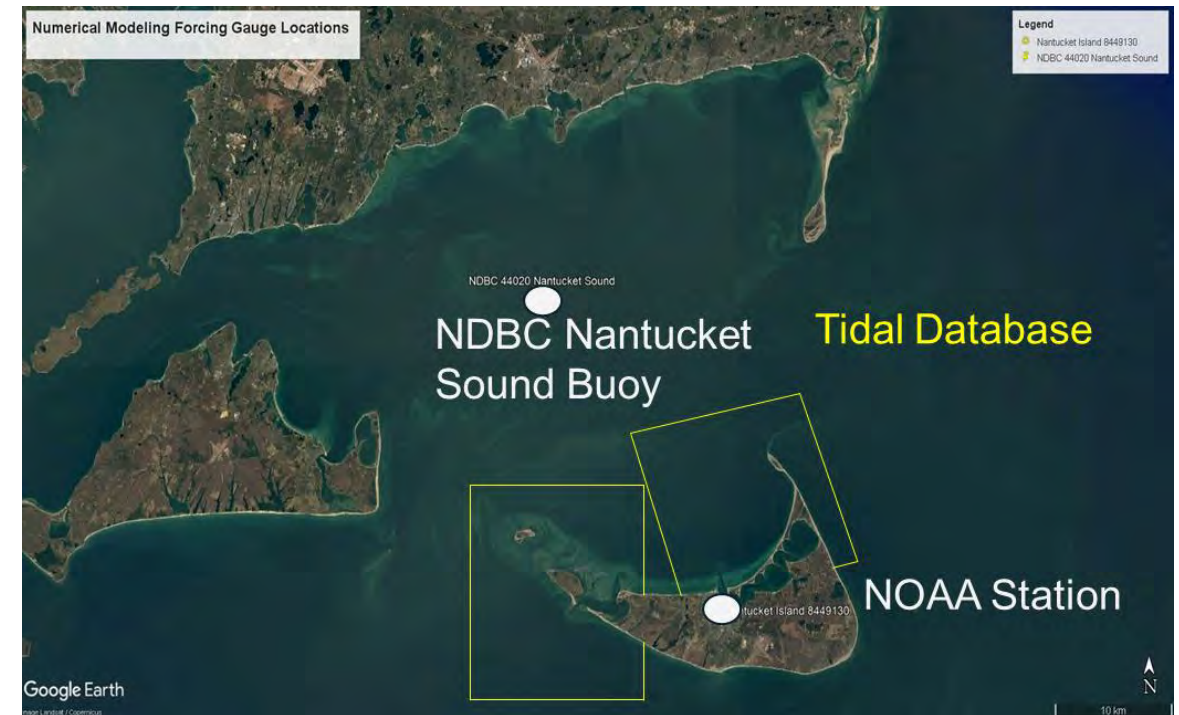
- Developed by the United States Army Corps of Engineers (USACE)
 - Used throughout New England

- Models
 - Waves
 - Winds
 - Tides
 - Sand movement



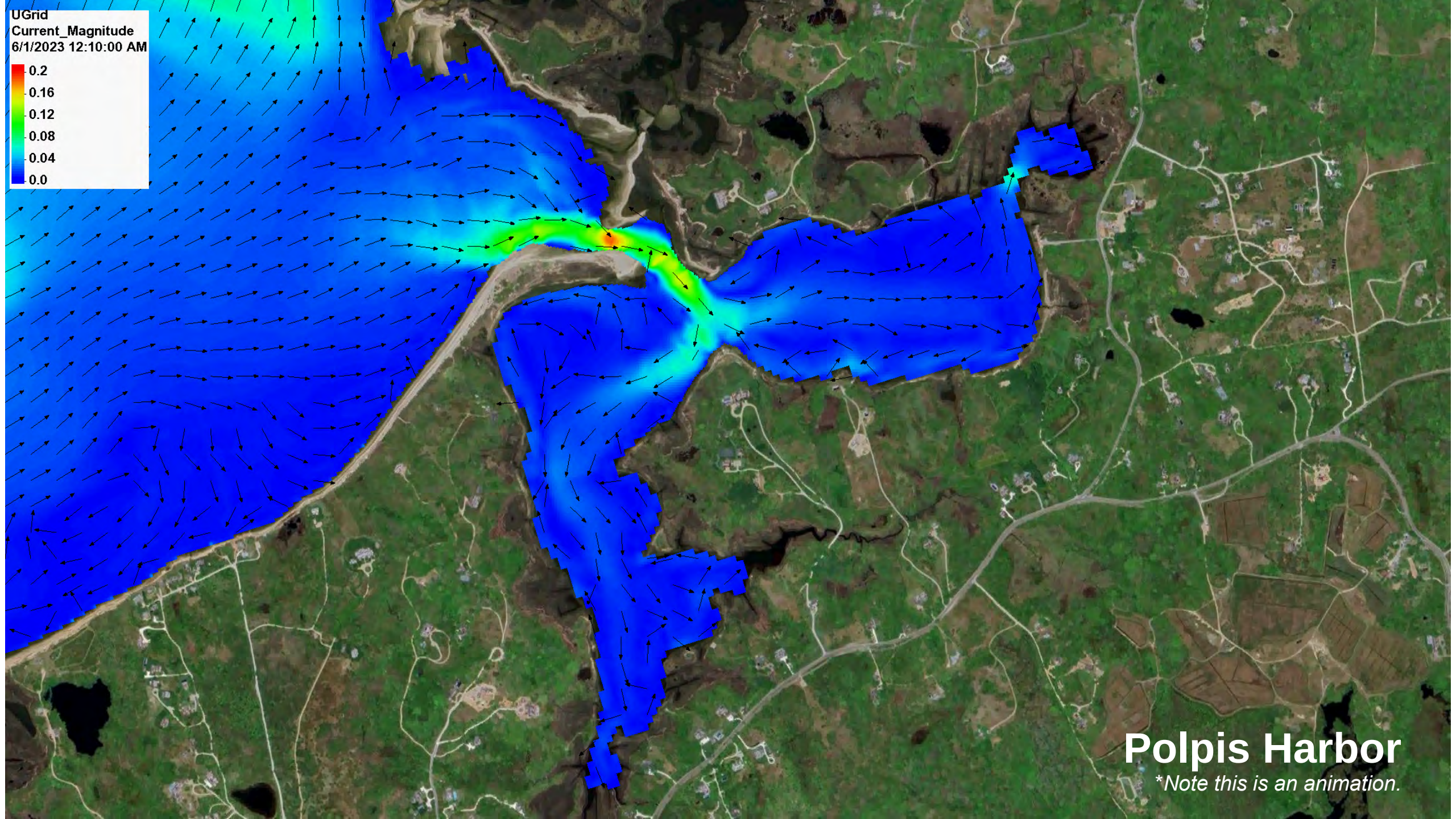
Data Sources

- **Waves**
 - National Data Buoy Center (NDBC)
- **Winds**
 - NDBC
 - National Oceanic and Atmospheric Administration (NOAA)
- **Tides**
 - Measured
 - NOAA
 - USACE Tidal Database
- **Bathymetry**
 - Measured
 - NOAA



Numerical model forcing gauge locations.

Initial Model Results



Polpis Harbor Observations

- Waves move sand into the inlet from north and south
- Tidal currents redistribute the sand within the inlet creating shoals

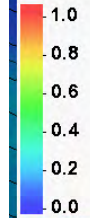


Upper Harbor Observations

- Unique tidal and wind formed features
- Shoreline is relatively stable with mild erosion
- No source of sand feeding the beach from the Harbor side



UGrid
Current_Magnitude
5/2/2023 12:10:00 AM



Madaket Harbor
**Note this is an animation.*

Madaket Harbor Observations

- Little sand transport into Hither Creek
 - Shoaling at the mouth
 - Sediment within Hither Creek is primarily mud
- Madaket Harbor
 - Extensive eel grass beds
 - Sand movement is storm driven

Q&A



Agenda Item Summary

Agenda Item #	VIII. 3.
Date	10/16/24

Staff

Kristie Ferrantella, Housing Director

Subject

Approval and Acceptance of Unit Deed and Settlement Statement in connection with Town acquisition of 19A First Way

Executive Summary

Following the Select Board approval of the Purchase & Sale Agreement for the acquisition of 19A First Way on October 2nd, the Board is being asked to accept the Unit Deed and approve the Settlement Statement to finalize the transaction. The purchase price is \$920,000 and the unit will be used for employee housing.

Staff Recommendation

Accept the Unit Deed and approve the Settlement Statement

Background/Discussion

N/A

Impact: Environmental ☐ Fiscal ☒ Community ☒ Other ☐

Board/Commission Recommendation

N/A

Public Outreach

N/A

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

Strategic Plan: Housing

Attachments

1. Unit Deed and Acceptance of Deed
2. Settlement Statement



UNIT DEED

I, PAMELA D. REED, Trustee of 19 FIRST WAY NOMINEE TRUST under Declaration of Trust dated December 31, 2008, recorded with Nantucket County Registry of Deeds in Book 1165, Page 219, with a mailing address of 3 Cow Pond Lane, #B, Nantucket, Massachusetts, for consideration paid in the amount of Nine Hundred Twenty Thousand and No/100 Dollars (\$920,000.00), grant to the TOWN OF NANTUCKET, a Massachusetts municipal corporation, acting by and through its Select Board, with an address of Town & County Building, 16 Broad Street, Nantucket, Massachusetts 02554

with QUITCLAIM COVENANTS,

That certain condominium unit having an address of 19A First Way, Nantucket, Massachusetts and being more particularly described as Unit A (the "Unit") of the 19 First Way Condominium (the "Condominium") created pursuant to Massachusetts General Laws, Chapter 183A by Master Deed dated September 29, 2023, and recorded with the Nantucket Registry of Deeds in Book 1951, Page 232 (the "Master Deed") as shown on said Floor Plans recorded with said Master Deed, together with (a) a 50% undivided percentage interest in both the common areas and facilities of the Condominium as described in the Master Deed and the organization of unit owners through which the Condominium is managed and regulated, (b) the exclusive right to use the Parking Spaces 1 and 2 as shown on the Condominium Site Plan recorded simultaneously with said Master Deed and storage area, if any, assigned to the Unit, (c) Exclusive Use Area for said Unit as shown on said Condominium Site Plan and (d) such other rights and easements appurtenant to the Unit, and subject to any rights, easements, agreements, and restrictions as may be set forth in any document governing the operation of the Condominium. including without limitation the Master Deed, the By-laws of the organization of unit owners, and any administrative rules and regulations adopted pursuant thereto.

The Post Office Address of the Unit is 19A First Way, Nantucket, Massachusetts 02554.

I, Pamela D. Reed, Trustee of the 19 First Way Nominee Trust, hereby certify as follows:

1. I am the sole Trustee of said Trust.
2. Said Trust is in full force and effect and has not been amended, modified, revoked, or terminated as of the date hereof.
3. I have full power and authority and have been authorized and directed by all of the beneficiaries of said Trust to enter into a sale transaction with respect to aforementioned premises, and in connection therewith to execute, acknowledge, and deliver, on behalf of said Trust, any and all documents with respect to said transaction, including, but not limited to, this Unit Deed for the consideration set forth above.

4. No beneficiary of said Trust, or a spouse, civil union partner, ex-spouse or ex-civil union partner of a beneficiary occupies or intends to occupy the land as a principal residence or is entitled to claim the benefit of an existing estate of homestead in the property, as set forth in M.G.L. Chapter 188.

5. No beneficiary of said Trust is a minor, incompetent to act, a personal representative of an estate subject to estate tax liens, or a corporation selling all or substantially of its assets.

For grantor's title, see deeds recorded with the Nantucket Registry of Deeds in Book 1165, Page 225, Book 1481, Page 100 and Book 1481, Page 102.

(the signature page follows.)

Executed and sealed under the pains and penalties of perjury on October _____, 2024.

Pamela D. Reed, Trustee
19 First Way Nominee Trust

COMMONWEALTH OF MASSACHUSETTS

County of _____, ss.

On the _____ day of October, 2024, before me, the undersigned notary public, personal appeared Pamela D. Reed, as Trustees of the 19 First Way Nominee Trust, (a) _____ personally known to me; or (b) _____ provided to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of her knowledge, and acknowledged to me that she signed it voluntarily for its stated purpose as her free act and deed as trustee of said trust.

Notary Public
My Commission Expires: _____

Apply stamp

ACCEPTANCE OF DEED

The undersigned, constituting a majority of the Town of Nantucket Select Board, hereby acknowledge that at a meeting of the Select Board held on October 16, 2024, the foregoing Deed from Pamela D. Reed, Trustee of the 19 First Way Nominee Trust, was accepted.

Executed under seal this ____ day of _____, 2024.

TOWN OF NANTUCKET
By its Select Board

Brooke Mohr

Matthew G. Fee

Thomas M. Dixon

Malcolm W. MacNab

Dawn E. Hill Holdgate

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss

On this _____ day of _____, 2024, before me, the undersigned Notary Public, personally appeared Brooke Mohr, Matthew G. Fee, Thomas M. Dixon, Malcolm W. MacNab and Dawn E. Hill Holdgate, as Members of the Select Board of the Town of Nantucket who proved to me by satisfactory evidence of identification, which was personal knowledge of the undersigned, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose, as the free act and deed of the Select Board of the Town of Nantucket.

Notary Public

My Commission Expires:

944993NANT19713/0091



Agenda Item Summary

Agenda Item #	VIII. 4.
Date	10/16/2024

Staff

Erka D. Mooney, Operations Administrator

Subject

Request for Waiver of Town Noise Bylaw for 3rd Sewer Force Main Project – Road Reconstruction on Surfside Road from Sparks Avenue to Fairgrounds Road from 4:00 PM to 5:00 AM, October 21, 2024 to November 29, 2024.

Executive Summary

Road reconstruction and paving is beginning on the roads that were impacted by the 3rd Sewer Force Main project. Surfside Road will be broken into four sections: Sparks Ave to First Way, First Way to Bartlett Rd, Bartlett Rd to Miacomet Ave, and Miacomet Ave to South Shore Rd. Road reconstruction for phases 1-3 will involve full road reclamation. Right now there are plans for the work to be done during the day. We are seeing how phase 1 goes with traffic detours and school traffic. If we feel it is not working, we want to give the contractor the opportunity to do the work at night. That being said, the work will be highly disruptive no matter if it is during the day or night.

Staff Recommendation

Recommend approval - IF NEEDED - with abutter notification to all impacted residents.

Background/Discussion

N/A

Impact: Environmental ☐ Fiscal ☐ Community ☒ Other ☐

Extreme noise and vibration for area residents.

Board/Commission Recommendation

N/A

Public Outreach

Abutter notification will occur as described above.

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

N/A



Attachments

Email from Robert B. Our

Noise Bylaw



From: [Abby Rose](#)
To: [Erika Mooney](#)
Subject: Noise Waiver Request
Date: Friday, October 11, 2024 10:57:00 AM

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

Hi Erika

Please accept this email as a waiver request of the Town Noise Bylaw for the 3rd Sewer Force Main Project – Road Reconstruction on Surfside Road from Sparks Avenue to Fairgrounds Road from 4:00 PM to 5 AM , October 21, 2024 to November 29, 2024.

This waiver request is being submitted , to provide options for the reclamation activities shall the full day time detour not be feasible.

Please let me know if you have any questions or need any additional information.

Thank you
Abby Rose

Chapter 101

NOISE

§ 101-1.	General prohibitions; exemptions; relief.	§ 101-2.	Air-conditioning and air-handling equipment, pumps, fans and compressors sound level limit; measurement.
		§ 101-3.	Enforcement; violations and penalties.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Nantucket 6-5-2021ATM by Art. 70, approved 10-7-2021.¹ Amendments noted where applicable.]

§ 101-1. General prohibitions; exemptions; relief.

- A. Prohibited noises. It shall be unlawful for any person or persons to create, assist in creating, cause or suffer or allow any excessive, unnecessary, loud or unusual noise which either annoys, disturbs, injures or endangers the reasonable quiet, comfort, repose or the health or safety of others by taking any of the following actions:
- (1) Making of loud outcries, exclamations, other loud or boisterous noises or loud and boisterous singing by any person or group of persons or in the use of any device to amplify the aforesaid noise between the hours of 10:00 p.m. and 7:00 a.m. (7:30 a.m. between June 15 and September 15 in each year) where the noise is plainly audible at a distance of 100 feet from the source of the noise or the property line of the building, structure, vehicle, vessel, or premises in which or from which it is produced. The fact that the noise is plainly audible at a distance of 100 feet from its source or the property line of the building, structure, vehicle, vessel or premises in which or from which it originates shall constitute prima facie evidence of a violation of this section.
 - (2) To operate, play or permit the operation or playing of any electronic sound-producing device, radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound between the hours of 10:00 p.m. and 7:00 a.m. (7:30 a.m. between June 15 and September 15 in each year) where the noise is plainly audible at a distance of 100 feet from the source of the noise or the property line of the building, structure, vehicle, vessel, or premises in which or from which it is produced. The fact that the noise is plainly audible at a distance of 100 feet from the property line of the building, structure, vehicle, vessel or premises in which or from which it originates shall constitute prima facie evidence of a violation of this section.
 - (3) To load, unload, open, close or otherwise handle boxes, crates, containers, building materials, trash cans, dumpsters or similar objects between the hours of 10:00 p.m. and 6:00 a.m. so as to unreasonably project sound across a real property line.

1. Editor's Note: This article superseded former Ch. 101, Noise, adopted 4-6-1982 by Art. 31, approved 6-23-1982, as amended, which bylaw was adopted in addition to a noise bylaw adopted 3-18-1969 ATM by Art. 97, which bylaw is on file in the Clerk's office.

- (4) Operating or permitting the operation of any mechanically powered tools or equipment actually being used in ongoing building construction, building renovations, non-emergency building maintenance, or building demolition work is prohibited between the hours of 8:00 p.m. and 7:00 a.m. [7:30 a.m. between June 15 and September 15 in each year, except for in the Old Historic District (OHD) as shown on the map entitled "Core Historic Districts," dated April 9, 2019, as may be amended from time to time, where the prohibition is between the hours of 6:00 p.m. and 8:00 a.m. between and including July 1 and Labor Day] Monday through Saturday and before 10:00 a.m. Sunday. The fact that the sound therefrom is plainly audible at a distance of 50 feet from its source or the property line of the building, structure, vehicle, vessel or premises in which or from which it originates shall constitute prima facie evidence of a violation of this section. Work referenced in this section shall include any work for which a building, sidewalk or roof, shingle, trench, tent, plumbing, gas, or wiring permit has been issued by the Town of Nantucket and any work for which a certificate of appropriateness has been issued by the Historic District Commission.
 - (5) Operating or permitting the operation of any mechanically powered tool (such as saws, drills, sanders, grinders, nail guns) or mechanically powered lawn or garden tool, or similar device used outdoors shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. [7:30 a.m. between June 15 and September 15 in each year, except for in the Old Historic District (OHD) as shown on the map entitled "Core Historic Districts," dated April 9, 2019, as may be amended from time to time, where the prohibition is between the hours of 5:00 p.m. and 8:00 a.m. between and including July 1 and Labor Day] Monday through Saturday and before 10:00 a.m. Sunday. The fact that the sound is plainly audible at a distance of 50 feet from its source of the property line on which the tools are being used shall be prima facie evidence of a violation of this section.
 - (6) Repairing, rebuilding, modifying, or testing any motor vehicle, motorcycle, or motorboat in such a manner as to be plainly audible at a distance of 50 feet from the source of the sound or the property line of the premises on which said activity is located is prohibited between the hours of 10:00 p.m. and 7:00 a.m. (7:30 a.m. between June 15 and September 15 in each year) Monday through Saturday and before 10:00 a.m. Sunday. The fact that the sound is plainly audible at a distance of 50 feet from its source of the property line on which the work is being conducted shall be prima facie evidence of a violation of this section.
- B. Exemptions. The following uses and activities shall be exempt from Subsection A of this section:
- (1) Noises of safety signals, warning devices and emergency pressure-relief valves.
 - (2) Noises resulting from any vehicle when responding to an emergency call or acting in time of emergency.
 - (3) Noises resulting from emergency and maintenance work as authorized by the Town, by the state or by public utility companies.
 - (4) Noises resulting from activities of a temporary duration permitted by a permit issued in accordance with this bylaw, but only to the extent such activities and the resulting noises are within the scope of such license or permit.
 - (5) Bells, chimes or carillons while being used for religious purposes or in conjunction with religious services, and those bells, chimes or carillons that are presently installed and in use for any purpose.

C. Permit for relief.

- (1) Upon written application, the Select Board, or its designee, may issue a permit authorizing an activity which is likely to result in noise that would otherwise be prohibited by § 101-1A of this bylaw.
- (2) The application shall be in writing, and shall contain the following information:
 - (a) The name, address, email address and phone number of the proponent of the activity;
 - (b) The specified dates and times of the proposed activity;
 - (c) The particular location, specifying outdoors, indoors or indoors open to the outdoors, and where on the premises the specified noise is to originate;
 - (d) Proof of ownership or the right to use the property in question; and
 - (e) The type of noise: i.e., amplified music, amplified speaking or singing voice, live band, acoustic musical instrument, or construction work, other.
- (3) The Board or its designee will issue a decision on the application within seven days of receipt thereof, unless the applicant demonstrates a need for the permit in a lesser period of time; provided, however, that a timely decision cannot be guaranteed if less than 48 hours' notice is required.
- (4) The Board or its designee may grant the permit subject to reasonable time, place and manner restrictions to protect public health, safety and welfare so as to advance the purposes of this bylaw to the greatest extent possible.
- (5) The Board or its designee may deny the application if the activity conflicts with another activity previously permitted, if the activity presents a threat to public health or safety or welfare, or if the activity is prohibited by the laws of the commonwealth or the Town of Nantucket. If the application is denied, the Board or its designee shall provide the applicant with a statement of reasons.
- (6) The Select Board may enact regulations to effectuate the purposes of this bylaw.
- (7) The issuance of a permit pursuant to this bylaw shall not relieve the applicant of the requirements of any other applicable laws concerning the activity at issue.

§ 101-2. Air-conditioning and air-handling equipment, pumps, fans and compressors sound level limit; measurement.A. Prohibited noises. **[Amended 6-5-2021 ATM by Art. 80, approved 10-7-2021]**

- (1) No person shall operate or cause to be operated any air-conditioning or air-handling equipment, swimming pool or spa pump, or an exhaust fan, in such a manner as to exceed 55 dBA over a ten-minute period of time, measured from a distance of 40 feet or more from the source of the sound or the property line of the premises on which said activity is located at any time of the day or night.
- (2) Commencing on December 1, 2020, the use of gas-powered leaf blowers at all times of the day on all days of the year, by any commercial landscaper, commercial landscape company, or other entity engaged in the business of providing home and yard repair, cleanup, and maintenance

services for a fee shall be prohibited on a Town-wide basis.

- (3) Upon written notice to the owner of the property as recorded with the Nantucket Assessor of a violation of § 101-2A, and the property owner fails to mitigate the violation within 14 days, then the property owner shall be deemed to be in violation of § 101-2A.

B. Sound measurement.

- (1) The measurement of sound or noise shall be made with a sound level meter meeting the standards prescribed by ANSI S1.4, as may be amended or superseded from time-to-time. The instrument shall be maintained in calibration and good working order. A calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. During measurement, the microphone shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured. Sound level limits pursuant to this rule shall be measured over a ten-minute period of time with a sound level meter. Sound levels which exceed the limits set forth in paragraph A above when measured are a violation of this rule.

§ 101-3. Enforcement; violations and penalties.

- A. This bylaw may be enforced by Board of Health officials, Nantucket Police Department Employees, plus Inspectors, Natural Resources Enforcement Officers, and any other agents appointed by the Select Board.
- B. Whoever violates any provision of this bylaw may be penalized by a noncriminal disposition process as provided in Massachusetts General Laws, Chapter 40, § 21D, and the Town's noncriminal disposition bylaw, §§ 1-2, 1-3, 1-4, 1-5, and 1-6 of the Code of the Town of Nantucket.
- C. If noncriminal disposition is elected, then any person who violates any provision of this bylaw shall be subject to a penalty in the amount of \$300 for each violation; provided, however, that a first offense may be the subject of a warning in the officer's discretion.
- D. Each such act which constitutes a violation of this bylaw, which either continues or is repeated more than 30 minutes after the issuance of an order to cease said activities, shall be considered a separate offense. If more than one, each condition violated shall constitute a separate offense.
- E. A violation of this chapter may be deemed a breach of the peace. Violators shall first be given a verbal order by the enforcing police officer to cease or abate the noise immediately or within a specified period of time. If the person or persons so ordered do not comply with the verbal order, the enforcing police officer may arrest such person or persons for a violation of this chapter.
- F. Whoever violates any provision of this bylaw may be penalized by indictment or on complaint brought in the District Court. Except as may be otherwise provided by law and as the District Court may see fit to impose, the maximum penalty for each violation or offense shall be \$300. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
- G. The Town may enforce this bylaw or enjoin violations thereof through any lawful process, and the election of one remedy shall not preclude enforcement through any other lawful means.

NOTICE OF PUBLIC HEARING

In accordance with MGL Chapter 130, Section 73 and under the authority of Chapter 122-5 of the Code of the Town of Nantucket, the Select Board will hold a public hearing on Wednesday, October 16, 2024 at 5:30 PM to consider amendments to Town Regulations Chapter 260 (Fishing and Shellfishing), section 4.29 (Bay scallops), subsection (I), to allow the Select Board to have the ability to raise or lower the bushel limit for commercial scallopers if surveys indicate an alteration is needed. The hearing will be held in-person in the first floor Community Room of the Public Safety Facility, 4 Fairgrounds Road and by remote participation via Zoom Webinar. Please see meeting posting for remote participation and viewing links. For further information, please email TownManager@nantucket-ma.gov.

Public Hearing to Consider Amendments to Town Regulations Chapter 260 (Fishing and Shellfishing), Section 4.29 (Bay Scallops), Subsection (I), to Allow the Select Board to Have the Ability to Raise or Lower the Bushel Limit for Commercial Scallopers if Surveys Indicate an Alteration is Needed, Pursuant to MGL Chapter 130, Section 73 and Chapter 122-5 of the Code of the Town of Nantucket.

Regulation (Current)

§ 260-4.29. Bay scallops.

- I. Commercial bay scallop limits. The Select Board shall allow the taking of five level bushels (shells included) in "Town approved boxes" per commercial bay scallop permit. Each boat may have a maximum of 10 level bushels harvested with two valid commercial bay scallop permit holders on board.

New proposed regulation

§ 260-4.29. Bay scallops.

- I. Commercial bay scallop limits: The Select Board, **at a public meeting, may approve increasing or decreasing the daily catch limit each season under recommendations related to Town of Nantucket shellfish abundance surveys provided by the Natural Resources Department and the Harbor Shellfish Advisory Board. If no adjustments are recommended, the limit shall be at 5 level bushels per commercial license.**



Town of Nantucket

♦♦♦♦♦

OFFICE OF THE TOWN & COUNTY CLERK

16 Broad Street
NANTUCKET, MASSACHUSETTS 02554-3590

Nancy L. Holmes, CMC
Town & County Clerk

(508) 228-7216
FAX (508) 325-5313

Email: nholmes@nantucket-ma.gov
townclerk@nantucket-ma.gov

WEBSITE: <http://www.nantucket-ma.gov>

♦♦♦♦♦

Nov. 7, 2023

TO WHOM IT MAY CONCERN:

I, Nancy L. Holmes, duly elected Clerk of the Town and County of Nantucket, hereby certify that the Nov. 5, 2023 SPECIAL TOWN MEETING adopted **Article : 3** at the Nov. 7, 2023 adjourned session when "...the adoption of all articles not heretofore acted upon as recommended by the Finance Committee, or as recommended by the Planning Board, was duly motioned, seconded, and voted in accordance with the motions recommended by the Finance Committee or, in the absence of a Finance Committee motion, then in accordance with the motions as recommended by the Planning Board, as printed in the Finance Committee Report, with technical amendments brought forward during the course of the meeting..."

ARTICLE 3

(Acceptance of Massachusetts General Law: Adoption of Community Impact Fee on Professionally Managed Short-Term Rentals)

To see if the Town will vote to accept the provisions of General Laws Chapter 64G, Section 3D(a), authorizing the imposition of a community impact fee of three percent (3%) on the transfer of occupancy of a short-term rental in a "professionally-managed unit", which term is defined as one of two or more short-term rental units that are located in the same city or town, operated by the same operator and are not located within a single-family, two-family, or three family dwelling that includes the operator's primary residence; or take any action relative thereto.

(Select Board)

FINANCE COMMITTEE MOTION: Moved that the provisions of Chapter 64G, Section 3D(a) of the General Laws, are hereby accepted.

VOTE: The vote on the motion pursuant to Article 3, as moved by the Finance Committee, was by 2/3rds Vote, Yes: 595, No: 66. The motion was adopted.

Nancy L. Holmes, CMC
Town & County Clerk

STM 23

Article 3

Page 1 of 1

ATTEST: TRUE COPY
Nancy L. Holmes
NANTUCKET TOWN & COUNTY CLERK



T: 617.556.0007 F: 617.654.1735
101 Arch Street, 12th Floor, Boston, MA 02110

TO: Nantucket Select Board
CC: Town Manager
FROM: John W. Giorgio, Esq, KP-Law, P.C., Town Counsel
RE: Short-Term Rental Community Impact Fee – **UPDATED September 22, 2024**
DATE: September 18, 2024

Libby

It is necessary to update this Memorandum which I sent you last week. This update involves the question 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, 2014. After I sent this memorandum to you and the discussion that took place at the Select Board's meeting on September 18, 2024, the Department of Revenue 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.

While I indicated at the Select Board Meeting that the applicability of the community impact fee was subject to interpretation, now that the DOR has subsequently issued its guidance, I recommend that the Town inform Short-Term Rental operators of the DOR position on this matter because the DOR has the statutory authority to administer G.L. c. 64G. Operators should, therefore, comply with the DOR directive by collecting and remitting the community impact fee to the DOR on all rentals contracts that commence on or after October 1, 2024. If any operator wishes to contest this guidance, they can do so directly to the DOR through Mass Connect.

You have asked me to provide information regarding the community impact fee for certain types of Short-Term Rentals.

BACKGROUND

Massachusetts General Laws Chapter 64G, §3D governs the assessment of community impact fees by a Town on certain types of Short-Term Rentals. There are two types of community impact fees for short-term rentals. The first is on professionally managed units and the second is on Short-Term Rental units that are located within a single-family, two-family or three-family dwelling that includes the operator's primary residence.

At the November 17, 2023, Special Town Meeting, the voters approved the adoption of the first community impact fee and set the percentage amount at 3% of the amount of the rental. The fee must be collected by the owner or operator and remitted to the Massachusetts

Department of Revenue (DOR) . The DOR in turn distributes the total amount of the revenue received from the fee to the Town on a quarterly basis. Because of the timing of the Town's notification to DOR of the adoption of the fee, the fee goes into effect on October 1, 2024. ~~It is not entirely clear from the DOR letter sent to all registered Short-Term Rental operators, but we think it is reasonable to interpret the statute to say that the fee will only be applicable to Short-Term Rental contracts that are signed on or after October 1, 2024.~~ **Please see the revised opinion above.**

Please be advised that the revenue received by the Town from DOR for the community impact fees must be treated as follows: 35% of the revenue must be placed in a receipts reserved for appropriation account and can only be expended by the Town pursuant to a Town Meeting vote for infrastructure or affordable housing. The remaining 65% is General Fund revenue. (It should be noted that at the 2023 Special Town Meeting, there was a warrant article to create a special purpose stabilization fund for affordable housing and to dedicate that 100% of the community impact fee revenue to that fund, but the vote on the motion did not garner the necessary two-thirds vote required by law for such a dedication.)

WHAT TYPTES OF SHORT-TERM RENTALS ARE LIABILITY TO PAY THE COMMUNITY IMPACT FEE

As previously mentioned, the Town has only adopted the community impact fee on "Professionally-Managed Units" Short-Term Rentals, which are defined in G.L. c. 64G as "1 of 2 or more short-term rental units that are located in the same city or town, operated by the same operator and are not located within a single-family, two-family or three-family dwelling that includes the operator's primary residence."

I interpret this definition as follows: if the dwelling unit meets the definition of a Short-Term Rental in G.L. c. 64G, it is subject to payment of the local rooms occupancy tax under all circumstances, With respect to the community impact fee on professionally managed units, however, the following requirements must be met before the community impact fee is required to be paid:

1. An operator of a Short-Term rental must rent at least 2 Short-Term Rental units in the Town whether the two units are located on the same lot or on separate lots within the Town.
2. If one or both of the rental units is located within a single-family, two-family, or three-family dwelling unit that includes the operator's primary residence, the unit is not subject to the community impact fee.

The critical issue is whether the rental unit is located "within " a dwelling unit that includes the operator's primary residence. Accordingly, it is my opinion that where there are at least two dwelling units located on a lot, but the units are detached from the primary residence of the operator, all of the rental units would be subject to payment of the fee. This would include any free-standing structure that is suitable to rent and would include a cottage, a pool house, a guest house, or any other type of free-standing rental including a detached garage. If, however, the garage is attached to the primary dwelling (single family home of the operator) that unit

would not be subject to the fee because it would be “within” the primary residence of the operator.) Regardless of the rental activity on the same lot as the primary dwelling, any other short-term rentals located on other lots within the Town operated by the same person would be subject to payment of the fee.

WHAT IS THE RELATIONSHIP BETWEEN THE TOWN’S GENERAL BYLAW RELATING TO THE REGISTRATION AND OPERATION OF SHORT-TERM RENTALS, THE REQUIREMENT FOR PAYING THE LOCAL ROOMS OCCUPANCY TAX AND THE COMMUNITY IMPACT FEE, AND ANY ZONING BYLAW RELATING TO SHORT-TERM RENTALS AND NANTUCKET VACATION RENTALS?

The Town’s Short-Term Rental General Bylaw (§123 of the Town Code) and the Board of Health Regulations (§338) require a separate certificate of registration and payment of the applicable fee for each dwelling unit that is offered for rent as a Short-Term Rental, regardless of whether the Short-Term rental is located on the same lot as another Short-Term Rental. Currently, under the Board of Health regulations governing Short-Term Rentals, the fee is \$250 per year for each dwelling unit for which a certificate of registration is requested. A separate certificate of registration is required for each dwelling unit regardless of the number of dwelling units located on a lot. Under G.L. c. 64G, anyone operating a Short-Term Rental must also register with the DOR and pay any applicable fees.

For each dwelling unit that is operated as a Short-Term Rental, the operator must remit to DOR the applicable state and local rooms occupancy tax and the community impact fee as follows.

State rooms occupancy tax	– 5.7%
Local rooms occupancy tax	– 6%
Community impact fee	– 3%

The total for all taxes and fees, therefore, is 14.7%. The DOR will remit back to the Town the local rooms occupancy tax and the community impact fee. I would also point out that the responsibility for registering all dwelling units operated as Short-Term Rentals has been in place since the effective date of the Town bylaw (subject to the establishment of the Registry by the Town) as well as the DOR regulations. The only requirement that was added recently and that is effective on October 1, 2024, is the obligation to pay the 3% community impact fee.

In addition to the registration requirements contained in §123 of the Town Code, any Short-Term Rental may be subject to zoning regulations should one of the zoning bylaw amendments proposed at the September 17, 2024, special town meeting be adopted and approved by the Attorney General. It is also likely that additional general bylaw regulations may be proposed at a future town meeting.



OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name: Meghan Glawacki Last Name: Glawacki

Address: 2 Weydale Rd.

City: Nantucket State: MA Zip Code: 02554

Phone Number: 508-901-1505 Ext. _____

Email: MPEventing@me.com

Organization or Media Affiliation (if any): _____

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

☒ Individual ☐ Organization ☐ Media

Public Body that is the subject of this complaint:

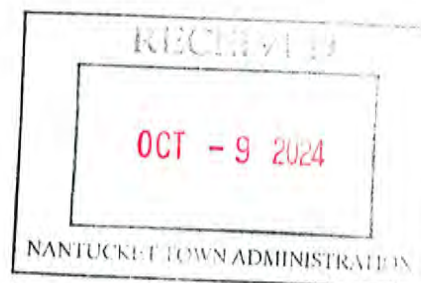
☒ City/Town ☐ County ☐ Regional/District ☐ State

Name of Public Body (including city/town, county or region, if applicable): Nantucket Selectboard and

Nantucket Affordable Housing Trust

Specific person(s), if any, you allege committed the violation: _____

Date of alleged violation: 10/4/2024



Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

Open meeting Law complaint

The town of Nantucket Select Board and the Town of Nantucket Affordable Housing Trust violated the Open Meeting Law on October 4, 2024 by causing the issuance and releasing a press release entitled "Achieving Surfside Crossing Year Round Housing Commitment".

Facts in support of this complaint:

Surfside Crossing is a proposed dense 156 unit affordable housing development to be located on 13 acres of open land on a dead end street with a single means of access to accommodate a proposed 500 people as occupants, such that various experts have decried the Surfside Crossing development as being unsafe and incompatible with Nantucket.

On October 2, 2024, a presentation was made to the public and the Nantucket Select Board by various local activists and officials for an alternative use of the property, a community collaboration project ("CCP"), so as to avoid the overly dense 156 unit Surfside Crossing project. This alternative includes playing fields for schools, housing for teachers along the lines approved by the Zoning Board of Appeals, Nantucket land bank open space and relocation of the town's nursing home "Our Island Home" to the site.

On October 4, after the CCP proposal, a press release was issued by the town of Nantucket and the Nantucket Affordable Housing Trust, stating that, notwithstanding the presentation of a better alternative use of the site, "the Town of Nantucket and the Affordable Housing Trust remain committed to supporting a project that will achieve the goal of having 75% of the units at Surfside Crossing restricted to year round use."

There are no records of any publicly noticed and duly convened meeting of the Nantucket Select Board or the Nantucket Affordable Housing Trust after the October 2 CCP presentation and no formal public votes taken by the membership of either board to "remain committed" on October 4th to the Surfside Crossing project, rather than the CCP,

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

Therefore, the relief requested is

- publication of all records of communications between the various board members of the two boards whether as a group or in serial discussions,
- voiding out the press release and having it considered and voted upon as an agenda item on duly noticed meetings of each of the two Boards,
- disclosures of the person or persons who "pulled the trigger" with the town's public relations firm to issue the press release, and
- the identity of those members of the Select Board and Affordable Housing Trust who decided to "remain committed" as of October 4, 2024 to the Surfside Crossing project and rather than the October 2nd CCP; disclosure of the identity of those members who chose to embrace the new CCP so that the public may know what the non-disclosed vote was,
- alternatively, to require the preparation of minutes of any group or serial discussions that lead to the decision to "remain committed" to the old project, rather than embracing the new project.

I. Disclosure of Your Complaint.

Public Record. Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

Publication to Website. As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

II. Consulting With a Private Attorney.

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: _____

Date: _____

For Use By Public Body
Date Received by Public Body:

For Use By AGO
Date Received by AGO:



The Commonwealth of Massachusetts
Office of the Attorney General
One Ashburton Place
Boston, Massachusetts 02108

OPEN MEETING LAW COMPLAINT FORM

Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

Instructions for filing a complaint:

- o Fill out the attached two-page form completely. Sign and date the second page. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
 - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
 - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
 - o Complaints may be filed by mail, by email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address the allegations in the complaint. At the same time, the body must send the Attorney General a copy of the complaint and a copy of the response. The public body may delegate this responsibility to an individual member of the public body, its counsel, or a staff member, but only after the public body has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

Once the public body has responded to the complaint:

- o If you are not satisfied with the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, by email, or by hand, but only once you have waited for 30 days after filing the complaint with the public body. Mail may be sent to: The Division of Open Government, Office of the Attorney General, One Ashburton Place - 20th Floor, Boston, MA 02108. Emails may be sent to: openmeeting@state.ma.us.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by email at openmeeting@state.ma.us.

October 15, 2024

Brian W. Riley
briley@k-plaw.com

BY ELECTRONIC MAIL ONLY (openmeeting@state.ma.us)

Carrie Benedon, Esq.
Director, Division of Open Government
Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Re: Town of Nantucket – Select Board
Open Meeting Law Complaint from Meghan Glowacki, received October 9, 2024

Dear Attorney Benedon:

Please be advised that this firm serves as Town Counsel to the Town of Nantucket. The Town's Select Board ("Board") is in receipt of an Open Meeting Law Complaint ("Complaint") received on October 9, 2024 from Ms. Meghan Glowacki, a copy of which is enclosed. The Complaint concerns a statement or "press release" that was posted to the Town's official website on October 4, 2024 - <https://www.nantucket-ma.gov/2779/For-the-Record>. The Complaint alleges that the Select Board and the Affordable Housing Trust held unposted meetings to draft or approve the October 4th statement. The Select Board reviewed the Complaint at its October 16, 2024 meeting and authorized this response.

The Select Board denies that any such unposted meeting was held, and there was no violation of the Open Meeting Law as alleged in the Complaint. As stated in the Complaint, Ms. Glowacki made a presentation during the October 2nd Select Board meeting concerning a planned development in town subject to G.L. c.40B known as Surfside Crossing. During her presentation, Ms. Glowacki referenced an "options contract" that had been submitted to the Town government on July 30th by the developers of Surfside Crossing. In fact, however, the Surfside Crossing group withdrew the proposed options contract on August 31, 2024 and it was no longer under consideration by either party. After Ms. Glowacki's presentation, the Town's Housing Director, Kristie Ferrantella, and Town Manager Libby Gibson discussed the matter and decided to issue a public statement to alleviate any confusion for town residents that might think the options contract was still actively under consideration by either party. Ms. Ferrantella drafted the statement and had it reviewed by the Town Manager's staff before posting it to the "For the Record" webpage. A copy of the statement is enclosed and may be found at the webpage link include above. No members of the Select Board or Affordable Housing Trust participated in the drafting or approval of the statement.



Carrie Benedon, Esq.

October 15, 2024

Page 2

The statement at issue in this Complaint was not drafted, reviewed or approved by either the Select Board or the Affordable Housing Trust, but rather it was prepared by Town officials who are not subject to the Open Meeting Law. There was no violation of the Law as alleged and no further action is required.

Very truly yours,

A handwritten signature in blue ink, appearing to read "B. W. Riley", written over a light blue horizontal line.

Brian W. Riley

BWR/nal

Enc.

cc: Town Manager
Select Board

944960/NANT/0001



Carrie Benedon, Esq.

October 15, 2024

Page 3

Ms. C. Elizabeth Gibson

Town Manager

Nantucket Town Hall

16 Broad Street

Nantucket, MA 02554

Hon. Brooke Mohr and

Members of the Select Board

Nantucket Town Hall

16 Broad Street

Nantucket, MA 02554

For the Record

On this page, you'll find Town of Nantucket's official responses to media and other statements, aiming to accurately present the facts. Sign up to receive updates from this page directly in your inbox.

FOR THE RECORD

2024

October 4 - Achieving Surfside Crossing Year-Round Housing Commitment

In July, the developers of the Surfside Crossing 40B approached the Housing Office to continue discussions aimed at ensuring that 75% of the units within the development would be restricted for year-round use. On July 30th, they submitted an "options contract" for the Town to review and for the Select Board to consider at an upcoming meeting. Throughout August, the Housing Director worked in collaboration with Town Administration and Town Counsel to analyze the contract and provide a staff recommendation.

On August 19th, the Housing Director, Finance Director, and a representative from the Select Board and the Affordable Housing Trust met with the developers to present alternative strategies for reaching the 75% year-round goal. The Housing Director notified the developers that she was unable to recommend the Options Contract without a clear understanding of its financial impact on the Town's budget.

Following these discussions, both parties agreed that it would be more prudent to utilize existing Affordable Housing Trust Fund programs rather than creating a new, untested program that had not been fully evaluated for fiscal responsibility, EOHLC approvals, or alignment with community needs. As a result, the Housing Director notified the Chair and Vice Chair of the Select Board that the agenda item should be removed, as no formal agreement was ready.

On August 31st, the developers formally withdrew the draft options contract. Both the Town and the developers concluded that using existing programs, such as the Closing Cost Assistance Program, the Year-Round Deed Restriction Pilot Program, or other future housing initiatives, would be the best approach. This path allows potential buyers to secure the deed restrictions directly, without requiring the Town to engage in a new program.

The Town of Nantucket and the Affordable Housing Trust remain committed to supporting a project that will achieve the goal of having 75% of the units in Surfside Crossing restricted for year-round use.

Town Administration