

BOARD OF SELECTMEN

Minutes of the Meeting of January 20, 2016. The meeting took place in the Public Safety Facility Community Room, 4 Fairgrounds Road, Nantucket, MA 02554. Members of the Board present were Rick Atherton, Robert DeCosta, Matt Fee, Tobias Glidden and Dawn E. Hill Holdgate.

I. CALL TO ORDER

Chairman DeCosta called the meeting to order at 6:02 PM.

II. BOARD ACCEPTANCE OF AGENDA

The agenda was unanimously accepted as presented.

III. ANNOUNCEMENTS

1. Town Manager C. Elizabeth Gibson announced that the Board of Selectmen meeting is being video and audio recorded.

IV. PUBLIC COMMENT

None.

V. NEW BUSINESS

None.

VI. APPROVAL OF MINUTES, WARRANTS, PENDING CONTRACTS

1. Approval of Minutes of December 2, 2015 at 6:00 PM. Chairman DeCosta noted a correction to the minutes. The minutes as amended were approved by the unanimous consent of the Board.

2. Approval of Payroll Warrants for Weeks Ending January 10, 2016; January 17, 2016. The payroll warrants for weeks ending January 10, 2016 and January 17, 2016 were approved by the unanimous consent of the Board.

3. Approval of Treasury Warrants for January 13, 2016; January 20, 2016. The treasury warrants for January 13, 2016 and January 20, 2016 were approved by the unanimous consent of the Board.

4. Approval of Pending Contracts for January 20, 2016 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference. Ms. Gibson reviewed the pending contracts, noting the contract with SMRT is for \$77,500; she answered questions from Board members. Department of Public Works Director Kara Buzanoski answered questions on the sidewalk and cobblestone contract. The pending contracts for January 20, 2016 were approved by the unanimous consent of the Board.

VII. CONSENT ITEMS

1. Request for Approval of Change of Manager of Annual All-Alcoholic Beverages Restaurant License for The Brotherhood of Thieves Restaurant Management Group LLC d/b/a The Brotherhood of Thieves from Jeffrey L. Knab, Manager to Donald Kolp, Manager, for Premises Located at 23 Broad Street. The change of manager application for the Brotherhood of Thieves to name Donald Kolp as new manager was approved by the unanimous consent of the Board.

VIII. CITIZEN/DEPARTMENT REQUESTS

1. The Museum of African American History: Request for Waiver of Sewer Connection Permit Fee and Sewer Privilege Fee for New Restroom Facilities at the Meeting House at 29 York Street. Maria Zodda spoke in favor of sewer fee waivers for the African Meeting House. Project Manager Marsha Fader spoke in favor of the request. Site Manager Kamal McCarthy answered questions from Board members and noted that the restrooms

will be open seasonally from 10:00 AM to 4:00 PM. Mr. Fee asked if the restrooms would be open to the public. Chairman DeCosta stated he would support a waiver if the restrooms had signs stating they were public. Ms. Fader said she is not sure if the museum is prepared to offer the restrooms as public as the intent is to offer them to program attendees. Ms. Hill Holdgate said since the project is mostly Community Preservation Act (CPA) funded it seems "silly" to pay the sewer fees with CPA funds. Mr. Glidden said he feels there is a public benefit and he supports the waiver of sewer fees, noting the Board has granted waivers for Habitat for Humanity. Mr. Atherton pointed out that Habitat homes go towards the Town's affordable housing inventory. Mr. Fee said he doesn't feel that having the restrooms open to the public is too much to ask. He said it wouldn't have to be advertised but he feels it should be offered. Ms. Fader said she won't advertise the restrooms as public but they will not turn people away from using them. Mr. Fee moved to waive the sewer connection fee permit and the Sewer Privilege Fee on the condition that the restrooms are to be open to the public when the museum is open; Ms. Hill Holdgate seconded. All in favor, so voted.

IX. PUBLIC HEARINGS I

1. Public Hearing to Consider Application for New Dealer in Junk, Old Metals and Second Hand Articles License for Island Treasures, LLC at 17B North Beach Street. Chairman DeCosta opened the public hearing. Karen Murphy, owner of Island Treasures, explained that her business is a consignment and thrift shop; she spoke in favor of the application. Chairman DeCosta closed the public hearing. Mr. Atherton moved to approve the license for Island Treasures as presented; Mr. Glidden seconded. All in favor, so voted.

2 Public Hearing to Consider Petition for National Grid/Nantucket Electric Company Plan # 20725504 to Install Handhole 26 on Property of 151 Main Street and Install Approximately 68' of 1-3" SCH 40 Conduit to Pole # 1 at Lowell Place in Order to Connect Underground Service at 151 Main Street. Chairman DeCosta opened the public hearing. National Grid engineer Stephen Breton spoke in favor of the petition and answered questions from Board members. Chairman DeCosta closed the public hearing. Mr. Glidden moved to approve National Grid petition # 20725504; Mr. Atherton seconded. All in favor, so voted.

3. Public Hearing to Consider Petition for National Grid/Nantucket Electric Company Plan # 20450028 to Install 1-3" Conduit from Handhole 15-1 on Fairgrounds Road 32' Northeast Along Side of Road then Across to Weatherly Place for Service at 5 Weatherly Place and 47 Fairgrounds Road. Chairman DeCosta opened the public hearing. Mr. Breton of National Grid spoke in favor of the application, noting the conduit has already been installed and National Grid is taking ownership of it. Chairman DeCosta closed the public hearing. Mr. Glidden moved to approve National Grid petition # 20450028; Mr. Atherton seconded. All in favor, so voted.

X. TOWN MANAGER'S REPORT

1. Our Island Home Enterprise Fund; Sewer Enterprise Fund; Solid Waste Enterprise Fund FY 2017 Projected Budgets. Human Services Director/Our Island Home Administrator Rachel Chretien presented the FY 2017 projected budget and reviewed the mission, goals, initiatives and accomplishments of Our Island Home, as well as priorities, significant changes and key issues. Ms. Chretien reviewed the projected revenues and expenses for FY 2017 and answered questions from Board members. She noted that all of the certified retained earnings will be used and there will still be a deficit of \$2.37 million that will need to be covered by a General Fund subsidy. Ms. Buzanoski reviewed the Sewer Enterprise Fund including initiatives and accomplishments. She noted that for FY 2017 there is no rate increase anticipated. She answered questions from Board members. Ms. Buzanoski reviewed projected revenues and expenses, noting the deficit will be covered by retained earnings. Ms. Buzanoski reviewed the Solid Waste Enterprise Fund, noting Mixed Solid Waste (MSW) is a cost for the Town for which there is no revenue source, and that the fixed cost is estimated at \$2.9 million for FY 2017. She said that the volume of mixed excavation waste has increased significantly and that the Town charges \$30/ton but pays Waste Options Nantucket \$103/ton per the terms of the Waste Services Agreement. Ms. Buzanoski answered questions on this cost and a discussion among Board members followed about increasing the Town

fee. The Board consensus is to schedule a public hearing to increase the rate for mixed excavation waste. Ms. Buzanoski reviewed revenues and expenses, noting the deficit is to be covered by retained earnings, the override subsidies and General Fund subsidy. Mr. Glidden suggested the Town establish a committee to investigate ending the Town's contract with Waste Options early, noting he is concerned with the "concept of the dump".

2. Review of Business License (Including Mobile Food Units, Courtesy Vans, Filming and Allowable Activities on Town Property) Process and Associated Fees Proposal. Ms. Gibson said about a year ago Town Administration noticed increasing demand for businesses on Town-owned property in response to which a proposed policy has been developed. She said she would like the Board to consider scheduling a public hearing to adopt associated fees. Business License Inspector Amy Baxter reviewed a proposed policy for Mobile Food Units (MFU), which would have three classifications: those with a dedicated location; roaming; and private events/special events. Ms. Baxter said currently there are 7-10 existing licenses but the Town has received over a dozen new requests. Mr. Fee asked if the MFUs will be expected to pay landfill fees. Ms. Gibson said they are not. Ms. Baxter answered questions from Board members. Some discussion followed regarding home kitchens vs. commercial kitchens and how they are licensed and if landfill fees should apply. Mr. Fee said he feels it should be fair to the "brick and mortar" businesses. Ms. Baxter asked the Board to adopt the MFU policy as presented and set a date to adopt associated fees. Ms. Hill Holdgate moved to adopt the MFU policy and schedule a public hearing to adopt associated fees; Mr. Glidden seconded. All in favor, so voted. Ms. Baxter reviewed a proposed film and photography policy, noting it clarifies many grey areas the current film policy does not cover. Chairman DeCosta reviewed his concerns regarding professional photographers taking family portraits being charged a fee. He also said that "small" commercial filming should be 4-10 people, with no charge for 1-3 people. Ms. Baxter said news photographers are not included in the fees and the photography referred in the policy is commercial in nature like Talbots doing catalog shoots, not wedding photography and the like. Mr. Atherton said he is impressed with the level of effort that went into drafting the policy. Ms. Baxter said she will revise the film and photography policy and bring it back at a future date for further review. Ms. Baxter reviewed a policy for allowable activities on Town-owned properties including Town beaches. Chairman DeCosta said this policy "looks great". Mr. Fee moved to approve the policy for allowable activities on Town-owned properties as presented; Ms. Hill Holdgate seconded. All in favor, so voted. Ms. Gibson noted regarding courtesy van parking, Town Administration is considering a fee. Ms. Hill Holdgate moved to set a date for courtesy van fees and regulations; Mr. Glidden seconded. All in favor, so voted.

3. Advanced Life Support Ambulance Service Presentation; Request to Schedule Public Hearing to Adjust Ambulance Rates. Fire Chief Paul Rhude reviewed Advanced Life Support (ALS) ambulance service, noting the goal is for Nantucket to meet the national standards as it is the only region in Massachusetts at the basic life support (BLS) level. Chief Rhude reviewed response times, staffing and state staffing averages. He reviewed his recommended staffing increases to five people minimum per shift in the winter and nine people per shift in the summer. He reviewed the skill sets for EMTs vs. paramedics. Chief reviewed a four-year plan to transition to ALS including an ALS implementation budget. He noted the Town has extremely low ambulance rates and suggested increasing them. He reviewed revenue and ambulance rates, and next steps.

4. Review of Proposed Regulation Regarding Paid Parking at 2 Fairgrounds Road Municipal Parking Lot; Request to Schedule Public Hearing to Amend Traffic Rules and Regulations. Ms. Gibson explained there is a proposed regulation regarding paid parking at the 2 Fairgrounds Road municipal parking lot and it will require scheduling a public hearing. Chairman DeCosta said he also wants to revisit residential parking permit rates. Mr. Glidden moved to schedule a public hearing to discuss paid parking and residential parking permits; Ms. Hill Holdgate seconded. All in favor, so voted.

At 8:06 PM Ms. Hill Holdgate left the meeting.

XI. SELECTMEN'S REPORTS/COMMENT

1. Discussion Regarding Shellfishing Policy and Regulations, Section 2.18/Catch Reports Provided to the Town and Notice to Scallopers. Chairman DeCosta said he asked for this matter to be on the agenda because he has questions regarding catch reports and he wants clarification. Natural Resources Coordinator Jeff Carlson reviewed the catch report form, noting he plans to revise it and said he will also start sending out yearly renewal packages. Chairman DeCosta asked if catch reports can be submitted upon renewal. Mr. Carlson said he likes to receive them this time of the year so they can be better tracked. Chairman DeCosta commented that fishermen already have to file reports for state and federal and now have to submit for local as well.

At 8:11 PM Ms. Hill Holdgate returned to the meeting.

Mr. Carlson said that his office will work on simplifying the catch report form, which is currently modeled on the state form. He said they are also working to allow online filing. Mr. Carlson answered questions from Board members.

2. Adoption of 2016 Annual Town Meeting and Election Warrant. Ms. Gibson reviewed the draft warrant as of 12:30 PM today noting more changes have come in after that time. She said there is a question regarding Article 15/School Appropriation whether or not there is a need for a ballot question. Director of Municipal Finance Brian Turbitt reviewed discussions he has had with Town Counsel, Bond Counsel and the Department of Revenue (DOR) on this matter. He answered questions from Board members. Some discussion followed on Article 15 and a possible ballot question and why one may be needed and when it may need to go forward. Mr. Atherton said he feels the Board should put a ballot question for Article 15 on the 2016 Annual Town Election or at least for November. The Board was in consensus to move forward with a ballot question at a time later than the Annual Town Election. Ms. Gibson continued review of remaining articles and answered questions from Board members. Chairman DeCosta said he is not sure the Town should move forward with both sewer appropriation articles, and suggested moving forward at this time just with the Nantucket Harbor Shimmo/Plus areas. Mr. Atherton concurred. Mr. Glidden expressed concerns about increasing costs if the Board doesn't move forward with Madaket/Somerset at this time. Chairman DeCosta said he is concerned about sewerage the Somerset area as there are still many questions and he feels it is being pushed forward to take advantage of 0% interest financing. Mr. Fee said he has met with former Sewer Planning Work Group members and that there are still questions. Chairman DeCosta said if the Board moves forward with language for a 40/60 funding split for taxpayers/betterments, what happens to the ballot question if the percentage split is amended on town meeting floor. Discussion among Board members followed on pulling Article 19 for an appropriation to sewer the Madaket, Warren's Landing and Somerset sewer needs areas. Mr. Atherton moved to remove Article 19 from the warrant and include the 40/60 funding split language in Article 18. Ms. Buzanoski suggested the Board leave both articles in the warrant. Chairman DeCosta said he is not comfortable doing that now as he is not confident that they will both pass if both are pushed forward now. He added he feels there has not been enough public outreach or education. Ms. Gibson noted she is worried about public outreach as there are many capital projects on the horizon. Mr. Glidden moved to remove Article 19 from the warrant; Mr. Atherton seconded. So voted 3-2. Mr. Fee and Ms. Hill Holdgate were opposed. Some discussion followed on the funding language for Article 18. Mr. Atherton moved to leave the 40/60 funding split in Article 18; Mr. Glidden seconded. Attorney George Pucci from Town Counsel's office suggested the motion be pursuant to Town Counsel review. No final vote was taken on this. Ms. Gibson said she will remove Article 21 which was a companion article to Article 19. Article 35/Coastal Erosion was discussed by the Board. Mr. Atherton moved to include Article 35 in the warrant; Mr. Fee seconded. So voted 3-0. Chairman DeCosta and Ms. Hill Holdgate abstained. Deputy Director of Planning Leslie Snell reviewed zoning articles and answered questions from Board members. The Board consensus was to remove the medical marijuana home rule petition. Tucker Holland reviewed the Community Housing Bank article, noting it is being proposed with a \$2 million exemption and a .5% fee on the seller. Mr.

Glidden spoke in favor of increasing the fee to 1% and reducing the exemption to \$1 million. Mr. Atherton moved to leave the exemption at \$2 million but to increase the fee to 1%; Mr. Fee seconded. So voted 4-1. Chairman DeCosta was opposed. Director of Planning Andrew Vorce reviewed Article 93 regarding the acquisition of 42 Nobadeer Avenue. Mr. Atherton moved to adopt the 2016 Annual Town Meeting and Annual Town Election Warrant pending final review changes by Town Counsel; Mr. Glidden seconded. All in favor, so voted.

3. Ratification of Decision Regarding Appeal of Joseph Freeman and Juliana and Theodore P. Lyman of Historic District Commission (HDC) Approval of Certificate of Appropriateness (COA) No. 64611, with Regard to the Property Location of 13 C Street, Nantucket, Map 60.2.1, Parcel 76 (Continued from January 6, 2016).

Chairman DeCosta and Ms. Hill Holdgate recused themselves from this matter. Mr. Fee stated a new issue is that the Board voted 2-1 on the HDC appeal of 13 C Street but the HDC Act mandates that vote must be a majority of the Board, not a majority of the voting members present. Attorney Pucci explained that a majority vote of the Board means a quorum so three positive votes are needed. Mr. Fee stated he is not willing to change his vote. Mr. Atherton reviewed the options for the Board, noting he is not happy with the Board's decision as written and he would prefer to wait one week and allow the decision to be redrafted and consult with Town Counsel. Mr. Fee noted he has suggested changes to the decision language. Mr. Atherton moved to allow for consultation with Town Counsel and table this matter for one week; Mr. Glidden seconded. So voted 2-1. Mr. Fee was opposed.

4. Deliberation/Action on Appeal of Samantha Parsons of Historic District Commission (HDC) Approval of Certificate of Appropriateness (COA) No. 64656, with Regard to the Property Location of 6 Marble Way, Nantucket, Map 66, Parcel 103 (Continued from January 6, 2016).

Chairman DeCosta rejoined the meeting. Ms. Hill Holdgate recused herself from this matter. Mr. Glidden said he is concerned about a precedent being set for large buildings even with screening and feels it is outside the guidelines found in *Building with Nantucket in Mind*. Mr. Fee said this is a "tough one" and agreed with Mr. Glidden, noting the HDC minutes reflect that throughout the process the HDC had concerns with massing. Mr. Atherton noted one side of Marble Way is residential and the other is commercial, and that on the commercial side, if a building is designed and screened properly, that is what happens when there are commercial activities in residential areas, and he is not sure he is against that if it is properly done. Mr. Glidden agreed but questioned who supersedes who, HDC or Zoning? Chairman DeCosta clarified that the building as designed is allowed under current zoning and has been approved by the Planning Board. Attorney Pucci stated the only relevance is setting regarding residential vs. commercial, not zoning. He added if the Board finds that the HDC followed the standard that it will be more difficult to say it acted arbitrarily and capriciously and reminded the Board that it cannot substitute its judgment for that of the HDC. Mr. Atherton said he feels the HDC was cognizant of the setting as it turned the building to lessen the impact on the street view. Chairman DeCosta said he sees no grounds to rule the HDC acted arbitrarily and capriciously. Mr. Glidden said he feels the HDC acted in an inappropriate way in the neighborhood. Mr. Atherton said he feels the impact could be worse cutting the building into two pieces. Mr. Atherton moved to deny the appeal of Samantha Parsons of HDC approval of COA No. 64656 with regard to the property location of 6 Marble Way, Nantucket, Map 66, Parcel 103, and to uphold the HDC decision; Mr. Glidden seconded. So voted 4-0.

5. Committee Reports. Mr. Atherton reported that he attended a recent meeting with the Richmond Group to discuss a fiscal impact study of its development of the former Glowacki property off Old South Road, and said he doesn't feel one meeting is collaborative. He said another meeting or two would fill the spirit of the 2015 Special Town Meeting vote, but as of now he hasn't been invited back. Mr. Atherton asked the Board to support a request to further dialogue. The Board was in consensus. Chairman DeCosta and Mr. Atherton reported on the Audit Committee, noting they continue to see improvement in the Town's financial management. Ms. Hill Holdgate reported on the Community Preservation Committee.

XII. PUBLIC HEARINGS II

1. Public Hearing to Consider the Appeal of Polpis Harbor LLC of Historic District Commission (HDC) Approval of Certificate of Appropriateness (COA) No. 64948, with Regard to the Property Location of 250 Polpis Road, Nantucket, Map 26, Parcels 26/27. Chairman DeCosta recused himself from this matter. Vice Chairman Fee opened the public hearing. Attorney Kevin Dale, representing the appellant, reviewed the case and reason for appeal. He stated the tennis court and accompanying fence should be treated separately as the tennis court itself is not visible from Polpis Road, adding someone might see the fence or players but they won't see the court itself. Attorney Dale claimed the HDC acted outside of its authority because it based its decision on the use of the structure. He added he feels the HDC Chairman already has her mind made up before the HDC hearing. HDC Chairman Linda Williams said there were many applications for this property but the HDC views them as a whole and that they were not reviewed lightly. Ms. Williams said the HDC has to consider viewing the property from all travelled ways and the appellant has no control over screening. She stated if the appellant had asked for a "sports court" with no fence it probably would have been approved but tennis courts warrant fences. She said the HDC also approved a prior application for the property without a tennis court. Ms. Williams went on to say that viewing poles were placed, the members saw them from the road and deemed them too visible. She said she also suggested to the appellant moving the tennis court behind the guest house but they insisted on locating it on the property line. He said there is one application for two structures: a tennis court and a tennis court fence made of appropriate materials. HDC member Kristin Glazer stated that the height of the viewing poles were very visible and the HDC's concern is that the structures would be visible from a traveled way. Mr. Fee closed the public hearing. Mr. Atherton disagreed with Attorney Dale regarding the visibility, stating it would be quite visible. Mr. Glidden said he could see the location where the court was going and he feels it is visible and added that he feels past elements are important. Ms. Hill Holdgate stated she doesn't see how it is possible for HDC not to consider the project in its entirety and she can't see how the HDC's decision could be construed as arbitrary and capricious. She noted that the appellants were given alternative options to revise. Ms. Hill Holdgate moved to deny the appeal of Polpis Harbor LLC of HDC denial of COA No. 64948 with regard to the property location of 250 Polpis Road, Nantucket, Map 26, Parcels 26/27, and to uphold the HDC decision; Mr. Glidden seconded. So voted 4-0.

XIII. ADJOURNMENT

The meeting was unanimously adjourned at 10:32 PM.

Approved the 4th day of May, 2016.

**BOARD OF SELECTMEN
JANUARY 20, 2016 – 6:00 PM
PUBLIC SAFETY FACILITY COMMUNITY ROOM
4 FAIRGROUNDS ROAD
NANTUCKET, MASSACHUSETTS**

List of documents used at the meeting:

- VI. 1. Draft minutes of December 2, 2015 at 6:00 PM
- VI. 4. Pending contracts spreadsheet for January 20, 2016
- VII. 1. ABCC change of manager application from Brotherhood of Thieves
- VIII. 1. Letter from Marsha Fader requesting sewer fee waivers for African Meeting House; previous Selectmen meeting minutes from previous waivers granted; sewer fee waiver request history; letter from Assistant Town Manager to Marsh Fader, re: landfill waiver request; email from Marsha Fader
- IX. 1. Application for junk license for Island Treasures
- IX. 2. Departmental comments; National Grid petition # 20725504 for Main Street
- IX. 3. Departmental comments; National Grid petition # 20450028 for Fairgrounds Road
- X. 1. FY 2017 projected budget reports for Our Island Home Enterprise Fund, Sewer Enterprise Fund and Solid Waste Enterprise Fund; budget narrative of Solid Waste Enterprise Fund
- X. 2. Memo from Business License Inspector re: business license process and fees proposal; policies for mobile food trucks, Town-owned beaches and film and photography; film policy fee proposal
- X. 3. Summary of Nantucket Fire four-year staffing/service plan; four-year staffing/service plan presentation
- X. 4. Letter from Police Chief, re: paid parking at 2 Fairgrounds Road municipal parking lot
- XI. 1. Copy of letter to commercial shellfish license holders, re: license renewal; catch report; summary of Shellfish Regulation changes/additions; copy of letter from Shellfish Biologist, re: see movement and seed strandings; Shellfishing Policy and Regulations
- XI. 2. Draft 2016 Annual Town Meeting and Election Warrant; zoning maps
- XI. 3. Selectmen decision re: HDC appeal of 13 C Street
- XI. 4. Samantha Parsons HDC appeal of 6 Marble Way including cover letter, HDC application, drawings
- XII. 1. Polpis Harbor LLC HDC appeal of 250 Polpis Road including cover letter, HDC application, drawings; HDC file