



Town of Nantucket Finance Committee

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Committee Members: James Kelly (Chair), Clifford Williams (Vice-chair), Matthew T. Mulcahy, John Tiffany, David Worth, Stephen Maury, Craig Spery, Joseph T. Grause Jr.; Peter McEachern

MINUTES

Wednesday, March 30, 2016

4 Fairgrounds Road, Community Room – 1:00 p.m.

Called to order at 1:04 p.m.

Staff in attendance: Libby Gibson, Town Manager; Gregg Tivnan, Assistant Town Manager; Brian Turbitt, Director of Finance; Lynell Vollans, Assistant Director of Finance; Terry Norton, Town Minutes Taker

Attending Members: Kelly, Williams, Mulcahy, Tiffany, Worth, Maury, Spery

Absent Members: Grause, McEachern

Late Arrivals: Mulcahy, 1:06 p.m.; Maury 1:07 p.m.

Early Departures: None

Documents used: February 29, March 1, March 7, & March 8, 2016 minutes; Technical Amendment for Articles 30, 65, 70, and 90-92.

I. ANNOUNCEMENTS

1. None

II. PUBLIC COMMENT

1. None

III. APPROVAL OF PRIOR MEETING MINUTES

1. February 29, 2016: **Motion to Approve.** (made by: Worth) (seconded by: Williams) Carried unanimously
2. March 1, 2016: **Motion to Approve.** (made by: Worth) (seconded by: Williams) Carried unanimously
3. March 7, 2016: **Motion to Approve.** (made by: Worth) (seconded by: Williams) Carried unanimously
4. March 8, 2016: **Motion to Approve.** (made by: Worth) (seconded by: Williams) Carried unanimously

IV. DECLARATION OF EMERGENCY TO ALLOW FOR SNOW AND ICE EXPENDITURES

Sitting Kelly, Williams, Mulcahy, Tiffany, Worth, Spery,

Recused None

Discussion **Turbitt** – The amount he is asking to be approved is \$198,906.00 which includes Town personnel over time, payment to private contractors to supplement the plowing efforts, and the cost of the salt for the roads.

Motion **Motion to Approve the recommendation.** (made by: Spery) (seconded by: Worth)

Vote Carried unanimously

V. DISCUSSION OF POSSIBLE TECHNICAL AMENDMENTS TO WARRANT ARTICLES FOR 2016 ANNUAL TOWN MEETING (ATM)

1. Article 30 (Appropriation: FY2017 Community Preservation Committee)

Sitting Kelly, Williams, Mulcahy, Tiffany, Worth, Maury, Spery,

Recused None

Discussion **Kelly** – Reviewed the technical amendment recommended by the Community Preservation Committee to replace the words “Preservation Institute Nantucket” with “Nantucket Preservation Trust with Preservation Institute Nantucket”

Motion **Motion to Approve the technical amendment as noted.** (made by: Worth) (seconded by: Williams)

Vote Carried unanimously

2. Article 65 (Bylaw: Town of Nantucket Right to Farm)

Sitting Kelly, Williams, Mulcahy, Tiffany, Worth, Maury, Spery,

Recused None

Discussion **Kelly** – Reviewed the technical amendment as requested by the Board of Health (BOH). Explained a request to adjust the language to include the Board of Selectmen and the Zoning Enforcement Officer, not just the BOH.

Gibson – Read proposed language, “A copy of any grievance should be submitted to the above named boards and officer regardless of the entity to which it was originally submitted.”

Malcolm MacNab, Chair Board of Health – The BOH supports this article with that change.

Worth – Suggested it should read “shall be submitted...”

Motion **Motion to Approve the technical amendment as amended.** (made by: Tiffany) (seconded by: Worth)

Vote Carried unanimously

3. Article 70 (Bylaw Amendment: Nuisance Animals)

Sitting Kelly, Williams, Mulcahy, Tiffany, Worth, Maury, Spery,

Recused None

Discussion **Suzanne Gale**, Animal Control Officer, sponsor – Explained people have asked for the addition of an exception for poultry used in the practice of commercial agriculture.

Worth – Asked if it would improve the article if it included the citation of where in the Commonwealth of Massachusetts the definition of agriculture can be found. Asked if there is a standard for “disturbing the peace and quiet of any person.”

Gale – She uses her best judgement.

Worth – It seems as written it could be arbitrary and capricious in terms of what constitutes a nuisance; there should be a way to define that.

Gale – Stated she couldn’t find a definition.

Lauren Goldberg, Kopelman & Paige P.C. – There is a definition of nuisance noise developed through the Commonwealth; it is not just in the “eye of the beholder” but more of a standard of complaints and the nuisance noise must rise to a high level to a “reasonable person” standard.

MacNab – As originally written, the BOH accepted the article; if the proposed change is incorporated, the BOH would have to object. The change interferes with the BOH ability to enforce its obligation to enforce the article.

Roberto Santamaria, Director Department of Public Health – Massachusetts General Law Sections 111 & 122 allows his department to enforce nuisance noises that cause nuisances to public health. This bylaw without the amendment provides a second avenue of enforcement in the situation where a commercial poultry farm crops up and the roosters start bothering neighbors; with the proposed amendment, his office would have to enforce nuisance noise under the state law which is harder to do.

Williams – The article is still good without that technical amendment.

Spery – Asked if the BOH has used enforcement against commercial activities.

Santamaria – Not against commercial activities, but his office has received complaints about roosters in the Town area that are being worked on now. To his knowledge their enforcement meets the reasonableness standards mentioned by Ms Goldberg. Also there are laws through the Department of Environmental Protection that set a measure on technical levels for which they need a sound meter. It’s easier for enforcement to have a local bylaw with a local definition.

Worth – His question is does our local bylaw rise to the level of reasonableness. He’d like to see a reference to a standard for our regulatory boards to enforce.

Santamaria – This bylaw doesn’t set a standard. The Town noise bylaw on the books that can be used as a standard.

Goldberg – Agrees that if it’s prohibitive for the Town to regulate commercial agriculture, there is a statute that defines agriculture as a keeping of poultry; commercial would be keeping poultry for profit. Under the circumstances, it is unlikely that keeping poultry for profit could be deemed a nuisance as they are legally protected. However, agriculture can be regulated under zoning. She thinks that to the extent state law applies, the Town can adopt a bylaw that is consistent. Whether or not the standard is there, it is allowed by state law.

MacNab – The BOH will follow Massachusetts law if the change remains in.

Gale – Stated she has no concerns about deleting the technical amendment.

Motion **Motion to Maintain language as is and not adopt the technical amendment.** (made by: Sperry) (seconded by: Williams)

Vote Carried unanimously

- 4. Article 90 (Lease of Town Land for Renewable Energy Projects)
- 5. Article 91 (PILOT Agreements for Renewable Energy Facilities)
- 6. Article 92 (Net Metering Credit Purchase Agreements)

Sitting Kelly, Williams, Mulcahy, Tiffany, Worth, Maury, Sperry,

Recused None

Discussion **Kelly** – The proposed technical amendments for these articles is to add “photovoltaic (PV).”
Maury – Asked if Lauren Sinatra, the Energy Coordinator, has seen and supports the proposed amendments.

Kelly – Yes.

Williams – Looking at the minutes from February 9, 2016, it says, “Articles 90-92 have to do with a photovoltaic (PV) generating facility at either the airport or the Wastewater Treatment Plant (WTP). Article 90 does not relate to the Airport...” Asked what it means.

Bruce Mandel, Sponsor – His research indicates that there already is an article for a PV generating facility at the airport.

Motion **Motion to Approve the technical amendment as proposed for all three articles.** (made by: Maury) (seconded by: Mulcahy)

Vote Carried unanimously

VI. NEXT MEETING DATE/ADJOURNMENT

Date: Saturday, April 2, 2015; 8:30 a.m.; 10 Surfside Road, NHS Auditorium

Topics: Annual Town Meeting

Adjourned 1:30 p.m.

Submitted by:

Terry L. Norton