

BOARD OF SELECTMEN

Minutes of the Meeting of September 21, 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, Dawn E. Hill Holdgate and James R. Kelly.

I. CALL TO ORDER

Chairman Kelly called the meeting to order at 6:38 PM following a meeting of the NRTA Advisory Board.

II. BOARD ACCEPTANCE OF AGENDA

Town Manager C. Elizabeth Gibson noted that item IX. 8 is off the agenda. The agenda was unanimously accepted as presented.

III. ANNOUNCEMENTS

1. Ms. Gibson announced that the Board of Selectmen meeting is being video/audio recorded, in accordance with the requirements of the Open Meeting Law.

2. Emergency Management Coordinator Dave Fronzuto and Project Administrator Erika Mooney gave an update on the Easy Street Bulkhead Reconstruction Project and reviewed associated street closures and traffic changes which will be in place for the duration of the project. Attorney Rick Beaudette, representing project abutter Nantucket Island Resorts, inquired about access to the rear of its property at 15 South Water Street. Mr. Fronzuto and Ms. Mooney answered questions from Board members and Attorney Beaudette.

IV. PUBLIC COMMENT

None.

V. NEW BUSINESS

None.

VI. APPROVAL OF MINUTES, WARRANTS, PENDING CONTRACTS

1. Approval of Minutes of February 11, 2015 at 6:00 PM; February 25, 2015 at 6:00 PM; March 4, 2015 at 6:00 PM; April 1, 2015 at 6:00 PM; January 27, 2016 at 6:00 PM; September 14, 2016 at 6:00 PM. Mr. Fee moved to approve the minutes of February 11, 2015 at 6:00 PM, February 25, 2015 at 6:00 PM, March 4, 2015 at 6:00 PM, April 1, 2015 at 6:00 PM, January 27, 2016 at 6:00 PM and September 14, 2016 at 6:00 PM; Mr. Atherton seconded. All in favor, so voted.

2. Approval of Payroll Warrants for Week Ending September 18, 2016. The payroll warrants for week ending September 18, 2016 were approved by the unanimous consent of the Board.

3. Approval of Treasury Warrants for September 21, 2016. The treasury warrants for September 21, 2016 were approved by the unanimous consent of the Board.

4. Approval of Pending Contracts for September 21, 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 Nantucket Septic contract is off. Department of Public Works Director Kara Buzanoski reviewed the contract for Robert B. Our and answered questions from Board members. Mr. DeCosta moved to approve the pending contracts for September 21, 2016; Mr. Fee seconded. All in favor, so voted.

VII. CITIZEN/DEPARTMENT REQUESTS

1. Committee Appointments: Planning Board (Alternate). Ms. Gibson reviewed the Planning Board Alternate vacancy, noting there is one applicant. Mr. DeCosta moved to appoint Stephen Welch to the Planning Board Alternate seat for a one-year term, said term to expire June 30, 2017; Mr. Atherton seconded. All in favor, so voted.

2. Unitarian Church: Request to Name October 9, 2016 as Susan P. Jarrell Day in Honor of her 100th Birthday. Ms. Gibson reviewed the request. Mr. DeCosta moved to name October 9, 2016 as Susan P. Jarrell Day in honor of her 100th birthday; Ms. Hill Holdgate seconded. All in favor, so voted.

3. Nantucket Community Television: Request for Approval of Designation of Comcast Franchise Fee from Community Foundation for Nantucket to Nantucket Community Television. Ms. Hill Holdgate moved to resolve that the Nantucket Board of Selectmen, as Issuing Authority of the currently-effective Comcast Cable Television Renewal License, and pursuant to its authority under section 6.6 of the renewal license, votes to change the designation of Franchise Fee recipient from Community Foundation for Nantucket (CFAN) to Nantucket Community Television, (NCTV) effective as of September 30, 2016, and to authorize a letter to be sent to Comcast, advising them of this action, with a copy to CFAN and NCTV; Mr. Fee seconded. All in favor, so voted. Ms. Gibson noted that the current Comcast cable television contract expires in 2019 and the Town has received a letter from the state regarding starting the renewal process.

VIII. TOWN MANAGER'S REPORT

1. FY 2016 End of Year Budget Reports: Our Island Home Enterprise Fund; Sewer Enterprise Fund; Solid Waste Enterprise Fund. Human Services Director and Our Island Home Administrator Rachel Chretien reviewed the end of year budget report for Our Island Home, noting revenues far exceeded budget and can be contributed to certified public expenditure for calendar year 2014. She added that for 2014, Our Island Home received all that it applied for and in years before it received only a fraction of what it applied for. Ms. Chretien said they have recently applied for calendar year 2015 certified public expenditure and if the full amount is received again it will total about \$4 million. Ms. Chretien reviewed the estimated cost per day vs. the reimbursement per day, and average Medicare reimbursements. She answered questions from Board members throughout the presentation. Ms. Buzanoski reviewed the Sewer Enterprise Fund, noting revenues increased about \$500,000 due to an increase in permits issued and expenses increased about \$300,000. She reviewed details of the revenues and expenses and answered questions from Board members. Ms. Buzanoski reviewed the Solid Waste Enterprise Fund, noting revenue increased about \$500,000 but expenses increased "astronomically" by \$1.7 million. She reviewed details of the revenues and expenses and answered questions from Board members.

IX. SELECTMEN'S REPORTS/COMMENT

1. Hearings Regarding Sanctions Against the following Establishments Resulting from Liquor License Violations, Pursuant to Town of Nantucket Rules and Regulations Governing Alcoholic Beverages Section XV, "Sanctions for Violations of the Regulations": Mr. Fee recused himself from the three hearings. Chairman Kelly swore in various people offering testimony and opened the hearings. Business License Inspector Amy Baxter stated that the Police Department conducts investigations annually at licensed establishments serving alcohol, in accordance with Alcoholic Beverages Control Commission (ABCC) procedures. She added that the Board has received a letter from Attorney Jim Merberg, representing Table No. 1, requesting a continuance. Table No. 1 manager Sarah Powers stated she wished to represent herself without counsel present.

a) Table No. 1. Ms. Baxter reviewed the charges against Table No. 1, the facts of the investigation, the five year history of the establishment, aggravating circumstances, Section XV sanction guidelines, and the Nantucket Police Department (NPD) sanction recommendation of Table No. 1 serving a four-day suspension to be served August 1-4, 2017 and a two-day suspension to be held in abeyance until December 31, 2017 pending no further violations. Ms. Powers admitted to violating the store policy on August 9, 2016, noting her employees are TIPS trained. Regarding the August 2, 2016 violation she stated that an employee violated the store policy, is no longer an employee at Table No. 1 and that Ms. Powers purchased an electronic identification scanner to avoid future issues. Chairman Kelly closed the hearing. Mr. Atherton moved that the Board finds that on August 2, 2016 and August 9, 2016, the licensee violated MGL Chapter 138 § 34 and Town of Nantucket Rules and Regulations Chapter 250 § XV (D)(4) by serving alcohol to a minor; Ms. Hill Holdgate seconded. So voted 4-0. Mr. Atherton moved that Table No. 1 serve a four-day suspension to be served August 1-4, 2017 and a two-day suspension to be held in abeyance until December 31, 2017 pending no further violations under MGL Chapter 138 or the Town of Nantucket Rules and Regulations Chapter 250. Mr. DeCosta said he is not sure of the two days held in abeyance. Ms. Baxter explained that the two days to be held in abeyance is because the licensee had two violations immediately following a suspension day served this summer from a violation from 2015. Mr. DeCosta seconded. So voted 4-0.

b) Harpoon Liquors. Ms. Baxter reviewed the charges against Harpoon Liquors, the facts of the investigation, the five year history of the establishment, aggravating circumstances, Section XV sanction guidelines, and the NPD sanction recommendation of Harpoon Liquors serving a four-day suspension to be served August 8-11, 2017 and a four-day suspension to be held in abeyance until December 31, 2017 pending no further violations. Ms. Baxter answered questions from Board members. Harpoon Liquors owner Josh Harde said he was "pretty sure" Joseph Basquez was TIPS trained but regardless, he is no longer employed by Harpoon Liquors. Chairman Kelly closed the hearing and spoke in favor of the sanction recommendation. Mr. Atherton moved that the Board finds that on August 9, 2016, the licensee violated MGL Chapter 138 § 34 and Town of Nantucket Rules and Regulations Chapter 250 § XV (D)(4) by serving alcohol to a minor; Ms. Hill Holdgate seconded. So voted 4-0. Mr. Atherton moved that Harpoon Liquors serve a four-day suspension to be served August 8-11, 2017 and a four-day suspension to be held in abeyance until December 31, 2017 pending no further violations under MGL Chapter 138 or the Town of Nantucket Rules and Regulations Chapter 250. Ms. Hill Holdgate said she feels a four-day suspension held in abeyance is "too much". Chairman Kelly seconded. Mr. DeCosta said he supported the two-day suspension held in abeyance for Table No. 1 and feels that four days is "excessive". So voted 2-2. Mr. DeCosta and Ms. Hill Holdgate were opposed. Mr. DeCosta moved that Harpoon Liquors serve a four-day suspension to be served August 8-11, 2017 and a two-day suspension to be held in abeyance until December 31, 2017 pending no further violations under MGL Chapter 138 or the Town of Nantucket Rules and Regulations Chapter 250; Ms. Hill Holdgate seconded. Mr. DeCosta said mitigating factors for him are that the employee is no longer employed at the establishment, and the prior violations were in 2012 and 2013, and there were no violations in 2014 and 2015. So voted 3-1. Chairman Kelly was opposed.

c) Toppers at the Wauwinet. Ms. Hill Holdgate recused herself from this matter. Ms. Baxter reviewed the charges against Toppers at the Wauwinet, the facts of the investigation, the five year history of the establishment, aggravating circumstances, Section XV sanction guidelines, and the NPD sanction recommendation of a written warning. Attorney Beaudette said his client does not dispute the facts and takes the service of alcohol very seriously. Chairman Kelly closed the hearing. Mr. Atherton moved that the Board finds that on August 12, 2016, the licensee violated MGL Chapter 138 § 34 and Town of Nantucket Rules and Regulations Chapter 250 § XV (D)(4) by serving alcohol to a minor; Mr. DeCosta seconded. So voted 3-0. Mr. DeCosta moved to issue Toppers at the Wauwinet a written warning; Mr. Atherton seconded. So voted 3-0.

2. Discussion Regarding Real Estate Assessment Committee's Policy Regarding Recommendations on Yard Sale Parcels. Ms. Gibson explained that the Board asked for a review of the Real Estate Assessment Committee (REAC) policy REAC voted on regarding recommendations on yard sale parcels.

At 7:44 PM Mr. DeCosta left the meeting; he returned at 7:45 PM.

Mr. Atherton said he feels yard sale parcels should be reviewed even when they already have town meeting approval. Mr. Fee said he feels the goal of REAC is to vet the properties and that town meeting vote is only permissive. REAC Chairman Rhoda Weinman said the committee feels uncomfortable making price recommendations on properties which have already been agreed on for sale. She added that REAC feels strongly that if land is voted for disposition at town meeting then it should go under consent on the Board's agenda, and that if the Board disagrees then maybe the Board and REAC should have a joint meeting to discuss. Mr. DeCosta said he feels REAC should review new real estate items before they go to town meeting. Mr. Atherton noted that some land transactions that the Board has had issues with have already been approved by town meeting. Mr. Fee said he feels there should be a checklist that REAC uses in its review, including who brought the matter forward, what the use of the property is, etc., in order to "tighten things up". Director of Planning Andrew Vorce said the Planning Office has been working to clear up older yard sale properties from 2010, 2011 and 2012, and that the Town has not brought new real estate matters to town meeting in recent years, only citizens have. He added that there is a backlog of about 60 parcels which are stuck in Land Court but all the unregistered parcels have been closed out. Mr. Atherton stated that the taking of parcels is easy but that the disposition needs to be discussed regarding the possibility of subdivisions and "windfalls" for purchasers; he said he wants a mechanism to find those out. Mr. DeCosta said he agreed, but said his main concern is whether a property may be needed for future Town purposes. Mr. DeCosta suggested creating a checklist like the sewer district checklist.

3. Discussion Regarding Septic System Installations and Mitigation Options in Connection with Sewer Projects. Ms. Gibson said that some property owners who have recently installed I/A (innovative/alternative) septic systems have asked that if Town sewer is installed in front of their properties, can there be some mitigation for them. She noted that the Board of Health has recently discussed the issue of timing in terms of what the life of an I/A system is and what might be the appropriate time to allow mitigation to occur. Board of Health Chairman Dr. Malcolm MacNab said his board tried to figure out a fair system and if an I/A system has been recently installed then maybe the Board of Health could allow a delay in the time of the required sewer hookup, noting I/A systems have about a 20-year "shelf life". Dr. MacNab suggested that the Board of Selectmen could also waive sewer connection fees based on when an I/A system is installed vs. when sewer is available to that property. Mr. Atherton, who serves as the Selectmen's representative to the Board of Health, said the Board of Health gave Dukes Road property owners the ability to delay hook-ups. Some discussion followed among Board members regarding incentives to encourage sewer hookups, noting the reduced \$500 sewer connection fee might not be enough and the Sewer Privilege Fee might also need to be discussed. Dr. MacNab said he is comfortable with the Board of Health requiring hookup to sewer 10-years after the installation of an I/A system, adding the Board of Health had not voted on this yet. Ms. Gibson cautioned that the Board needs to understand the implications of fee waivers, noting the Board's policy will need some legal review and some parameters will need to be set. Chairman Kelly said he wants the option of waiving sewer connection fees and Sewer Privilege Fees. Mr. Fee stated there will be financial implications, noting that the cost to taxpayers will increase if the Board is now considering waiving fees. Mr. DeCosta said he would urge the Board of Health to not grant a waiver for more than 10 years, and asked how many I/A systems have been installed since

2012. Some discussion followed among Board members regarding costs. Ms. Buzanoski reviewed sewer connection fees and Sewer Privilege Fees, noting together they are approximately \$7,000 per connection. Mr. Atherton stated that the Board of Health has a policy that if a sewer line runs in front of a property, the owner has to connect within six months if the property is located in a needs area, and within two years if it is not in a needs area.

4. Action on Board of Selectmen Comments on October 17, 2016 Special Town Meeting Warrant Articles: Set Date of Special Town Election. Ms. Gibson noted that the Finance Committee adopted its motions yesterday for October 17, 2016 Special Town Meeting Warrant articles. She reviewed the warrant articles and answered questions from Board members. Regarding Article 10 (Polpis Harbor dredging), Mr. DeCosta questioned the Finance Committee's comment regarding sand residuals, stating that the type of sand, the estimated volume, where it will be stored and the cost of trucking needs to be compared to the cost of selling the sand. Mr. Atherton agreed, stating the Town needs answers to these questions. Mr. DeCosta suggested the Board insert a comment for Article 11 (acquisition of 40 Sparks Avenue) that it supports the Finance Committee motion and comment. The Board consensus was to add the Board comment to the warrant. Mr. Atherton said he finds Article 15 (zoning map change) "troubling", stating he plans to vote against it and the Board should consider the scope of the changes. Mr. Vorce explained that that Planning Board has given a positive recommendation on Article 15, noting of the 43 lots in the article, 10 are already below the two-acre standard, 14 have sufficient area but insufficient frontage, and 19 have sufficient area and frontage. He said the Planning Board considers neighborhood qualities and how it is occupied. Linda Williams, whose property is listed in Article 15, spoke in favor of the article, noting the neighborhood is "working class". Ms. Gibson reviewed the recommended date for a special town election: Tuesday, December 6, 2016. Mr. DeCosta moved to adopt the recommended date for a special town election; Ms. Hill Holdgate seconded. All in favor, so voted.

5. Review/Endorse Final Draft of Housing Production Plan. Housing consultant Tucker Holland reviewed a responsibility matrix for the Nantucket Housing Production Plan (HPP) and answered questions from Board members. Mr. DeCosta said he doesn't feel that the Community Preservation Committee (CPC) should be listed on the matrix as a possible funding source, as he feels the CPC won't give money to the Affordable Housing Trust Fund (AHTF) as it is still paying down a bond for Sachem's Path. Chairman Kelly said the AHTF needs the Board's supports on CPC funding and for \$1 million annually from the Town. Mr. DeCosta said he is not in favor of giving the AHTF more money when he hasn't seen how it spent the \$1 million the Town already gave it, adding it was his understanding that the first million was supposed to fund design plans for housing at 6 Fairgrounds Road. Ms. Hill Holdgate said a draft request for proposals (RFP) is ready to be issued. Mr. Holland reviewed other parts of the matrix, noting the idea is for the Town to give a valuable piece of land for housing and is not looking to spend more than some money on site prep-work "a la the \$1 million". Chairman Kelly noted the matrix presented is the deliverable the Board has been waiting on from the AHTF and he asked the Board to vote to endorse the plan, tonight. Mr. Fee said he believes the Town can't zone or build itself to affordability and needs "guardrails" on pricing. He added he doesn't feel the Town can move forward without guardrails. Mr. Atherton said regarding the final draft of the HPP concerning zoning, Judi Barrett, a consultant with RKG Associates who is helping write the HPP, said she would make language changes based on feedback from the last presentation to the Board and he feels those changes were not made. He added that he feels the tone in Ms. Barrett's memo is a "supply-side" issue, and he believes up-zoning should be linked to affordable housing and not be "supply-side". Mr. Vorce said the Town has voluntary allowances for affordable housing in its bylaws, and has developed workforce rental and ownership incentives. Planning Board Chairman and CPC member Barry Rector said he feels the CPC should fund the AHTF. He added that with zoning one needs to be careful about the

mechanism used, noting it is "highly illegal" to tie zoning automatically to affordable housing. Mr. DeCosta said he is ready to approve the HPP. Mr. DeCosta moved to approve the HPP as presented; Ms. Hill Holdgate seconded. Mr. Atherton said he feels it is reasonable from the last meeting when the HPP was discussed that some language would be changed, and noted his disappointment with the process. He took exception to the sentence: "However, increasing the supply rental and ownership housing without price restrictions requires both leadership and a sustained commitment of support from the Planning Board, Board of Selectmen, and other policy-making bodies in the town." Mr. DeCosta made a friendly amendment to delete the sentence from the HPP and approve the HPP; Mr. Fee seconded. All in favor, so voted.

6. Board of Selectmen Action to Request Affordable Housing Trust Expression of Support to Planning Board for Affordable Housing Restrictions in Connection with October 17, 2016 Special Town Meeting Zoning Articles. Mr. Atherton said this matter is moot and withdrew the agenda item.

7. Board of Selectmen Policy Discussion Regarding Mix of Affordable Housing and Town Employee Housing at 6 Fairgrounds Road. Chairman Kelly said he feels unclear what the housing mix is supposed to be at 6 Fairgrounds Road. Mr. Fee said Mr. Holland has a recommendation, noting that some items the Board previously discussed such as seasonal employee dormitories may not qualify for the SHI (subsidized housing inventory) list. Chairman Kelly said he'd like the Board to vote on a policy before it hears a recommendation from Mr. Holland. Ms. Hill Holdgate asked if the Town wants a developer to build a development at 6 Fairgrounds Road to go on the SHI list or have the Town build the site the way it wants. Mr. DeCosta noted that all rental units count toward the SHI list and suggested a RFP be issued for 64 rental units, with a 25% affordable and 75% market rate mix and two dormitories for seasonal Town employee housing. He said the Town should just issue a RFP for this and see what kind of response comes back. Ms. Hill Holdgate said she's not sure it is feasible. Mr. DeCosta said the Town needs seasonal dormitories. Mr. Holland stated it is a "complex process" and spoke in favor of issuing a RFP that will have a high likelihood to get positive responses, adding that employee-designated housing is "tricky". Mr. DeCosta suggested the Town use the \$1 million it already gave to the AHTF, offer another \$1 million, and offer the money towards infrastructure at the site as an incentive to a developer to build what the Town needs.

8. Review of Draft Memorandum of Agreement with Nantucket Cottage Hospital Regarding Improvements to Intersection of South Prospect Street, Surfside Road, Sparks Avenue and Atlantic Avenue. This matter was taken off the agenda.

9. Committee Reports. Ms. Hill Holdgate stated the CPC meetings are beginning and the CPC has received \$7,190,000 in requests.

X. ADJOURNMENT

The meeting was unanimously adjourned at 9:35 PM.

Approved the 28th day of September, 2016.

BOARD OF SELECTMEN
SEPTEMBER 21, 2016 – 6:00 PM
PUBLIC SAFETY FACILITY COMMUNITY ROOM
4 FAIRGROUNDS ROAD
NANTUCKET, MASSACHUSETTS

List of documents used at the meeting:

- III. 2. Easy Street Bulkhead reconstruction project street closures and traffic changes map; AGM traffic management and control plans
- VI. 1. Draft minutes of February 11, 2015 at 6:00 PM; February 25, 2015 at 6:00 PM; March 4, 2015 at 6:00 PM; April 1, 2015 at 6:00 PM; January 27, 2016 at 6:00 PM; September 14, 2016 at 6:00 PM
- VI. 4. Pending contracts spreadsheet for September 21, 2016
- VII. 1. List of Planning Board Alternate membership, seat available and applicant; committee application
- VII. 2. Letter from Unitarian Church, re: request to name October 9, 2016 as Susan P. Jarrell Day
- VII. 3. Letter from NCTV18, re: Request for Comcast franchise fee designation change; IRS determination letter; prepared vote
- VIII. 1. FY 2016 year end budget reports for Our Island Enterprise Fund, Sewer Enterprise Fund & Solid Waste Enterprise Fund
- IX. 1. Liquor license disciplinary hearing procedure; liquor license compliance checks violation notice; Section XV of the Town of Nantucket Rules and Regulations Governing Alcoholic Beverages; memos, re: 2015 liquor license sanctions
- IX. 1a. Table No. 1 – NPD charges/statement of facts/NPD recommendation of sanctions; notice to defendant; police report
- IX. 1b. Harpoon Liquors – NPD charges/statement of facts/NPD recommendation of sanctions; notice to defendant; police report
- IX. 1c. Toppers at the Wauwinet – NPD charges/statement of facts/NPD recommendation of sanctions; notice to defendant; police report
- IX. 2. Memo from Real Estate Assessment Committee, re: committee policy; REAC charge
- IX. 4. Draft warrant for October 17, 2016 Special Town Meeting; recommendation for Special Town Election date
- IX. 5. Memo from RKG, re: Nantucket Housing Production Plan; Housing Production Plan, August 2016; responsibility matrix
- IX. 6. Email from Rick Atherton
- IX. 7. Current site plan of 6 Fairgrounds Road; summary of BOS discussion, re: housing mix at 6 Fairgrounds Road; section of 4/27/16 BOS minutes; 4/27/16 housing presentation; section of 2/14/16 BOS minutes; 2/17/16 housing presentation; notes from 8/19/15 BOS meeting; housing information presented at 8/19/15 BOS meeting; housing documents from 5/6/16 BOS meeting
- IX. 8. Email from Town Counsel, re: agreement with Nantucket Cottage Hospital; draft Memorandum of Agreement with Nantucket Cottage Hospital, re: intersection improvements at “four corners”