

BOARD OF SELECTMEN

Minutes of the Meeting of 15 April 2009. The meeting took place in the Court Room, Town Building, 16 Broad Street, Nantucket, MA 02554. Members of the Board present were Rick Atherton, Brian Chadwick, Michael Kopko, Allen Reinhard, and Patricia Roggeveen. Chairman Kopko called the meeting to order at 6:00 PM.

Chairman Kopko noted that agenda item V. 5 has been postponed to May.

ANNOUNCEMENTS

Town Manager C. Elizabeth Gibson reviewed the committee appointment timeline and the committee vacancies available.

Ms. Gibson thanked all of those involved with the passage of Question One of the Annual Town Election which provided funding for the police station project. Police Chief William Pittman thanked the Board for its support, the Finance Committee for its strong endorsement, members of the Citizen Advisory Committee for the Public Safety Facility, and Linda Sonnonstine for her help behind the scenes. Chairman Kopko also thanked Diane O'Neil for serving as the first point of information in the Town Administration office.

Ms. Gibson announced there will be no meeting on 29 April 2009 as it is the fifth Wednesday of the month.

Health Inspector Richard Ray noted there will be a Board of Health meeting tomorrow at 5:00 PM at the Nantucket High School Large Group Instruction room to discuss municipal water extension to Madaket.

PUBLIC COMMENT

Arthur Gasbarro requested an update on the cable television renewal license with Comcast. Ms. Gibson explained the contract is currently under negotiation.

APPROVAL OF MINUTES, WARRANTS, PENDING CONTRACTS

Approval of Payroll Warrant for Week Ending 5 April 2009; 12 April 2009. The payroll warrant for weeks ending 5 April 2009 and 12 April 2009 were approved by the unanimous consent of the meeting.

Approval of Treasury Warrant and Pending Contracts for 15 April 2009. Chief Pittman reviewed a Department of Justice grant, noting there is a 30-day comment period commencing tonight. The treasury warrant and pending contracts for 15 April 2009 were approved by the unanimous consent of the meeting.

CITIZEN/DEPARTMENTAL REQUESTS

Fog Island Café: Seasonal Wine/Malt Beverages Restaurant License Surrender Notification and Expression of Intent to Become a "Bring Your Own" (BYO) Establishment. Ms. Gibson noted there are currently no local regulations or policy regarding BYO establishments. Fog Island Café owner Mark Dawson explained his intent to make his business and the community healthier by no longer serving alcohol. Mr. Chadwick moved to accept the license surrender notification; Mr. Reinhard seconded. All in favor, so voted.

Request for Alteration of Town Sidewalk in Front of 45-47 Main Street. Ms. Gibson reminded the Board that it recently approved a similar action at 52-54 Main Street in front of Mitchell's Book Corner. Attorney Steven Cohen, representing the owners of 45-47 Main Street, spoke in favor of the application, noting he has reviewed the application with Department of Public Works (DPW) Director Jeff Willett. Mr. Chadwick moved to approve the alteration of the sidewalk in front of 45-47 Main Street and commended the owners for taking the initiative to make the Town sidewalk handicap accessible; Mr. Reinhard seconded. Chairman Kopko expressed his concern on the "piecemeal fashion" of sidewalk alterations. Mr. Willett said the whole sidewalk block of this section of Main Street is scheduled for reconstruction by May 2009. A brief discussion followed about encouraging business owners to comply with Americans with Disabilities Act requirements and share in the cost of the Town's sidewalk reconstruction projects. On Mr. Chadwick's motion, all in favor, so voted.

PUBLIC HEARINGS

Public Hearing to Consider Proposed Amendments to the Beach Management Plan. Chairman Kopko opened the public hearing. Ms. Gibson explained that last year, before and during the summer, there were issues with beach closures in Madaket; as a result, the Beach Manager has proposed changes to the Beach Management Plan. Beach Manager Jeff Carlson reviewed the proposed changes, which he said would set up standardized beach restriction criteria to determine beach closures. He emphasized that this is to protect public health and safety. A brief discussion followed about the impacts of beach closures. Chairman Kopko closed the public hearing. Mr. Reinhard moved to approve the proposed amendments to the Beach Management Plan as presented; Mr. Chadwick seconded. All in favor, so voted.

Public Hearing to Consider Proposed Amendments to Commercial Shellfish Regulations. Chairman Kopko recused himself from this hearing and left the room. Vice Chairman Roggeveen opened the public hearing. Mr. Fronzuto said that the Town has never had commercial shellfish regulations for any species other than bay scallops and that the state regulations have always been relied upon for other species. In developing local commercial shellfish regulations, he noted there has been some ambiguity between the different types of regulations (commercial shellfish regulations, recreational shellfish regulations, and in the Town Code, the Taking of Shellfish) so Town Counsel's office has been working on reviewing them to ensure there are no conflicts between the different regulations. Mr. Fronzuto said any comments can be made to the Marine Department over the next few weeks while the language is being refined. Members of the Board commended Mr. Fronzuto for taking this initiative. Mr. Reinhard moved to continue the public hearing to 20 May 2009; Mr. Atherton seconded. All in favor, so voted.

Public Hearing to Consider National Grid Petition for NG Plan # 5903971-1 to Install Two Manholes and Electric Duct Bank on Oak Street, Nantucket. Ms. Roggeveen recused herself from this public hearing. Chairman Kopko opened the public hearing. Ms. Gibson said the DPW has reviewed the application and has presented no issues. Chairman Kopko closed the public hearing. Mr. Reinhard moved to approve National Grid's petition; Mr. Atherton seconded. All in favor, so voted.

Public Hearing to Consider Application for Public Assembly Permit for Nantucket Historical Association's Annual Antiques Show Preview Party to be Held 30 July 2009 at Bartlett Farm. Chairman Kopko opened the public hearing. Nantucket Historical Association Special Events Manager Stacey Stuart spoke in favor of the application, noting this will be the 32nd year of the

NHA's August Antiques Show, and that this will be the first year the preview party is being held at Bartlett Farm. Mr. Atherton moved to approve the public assembly permit; Ms. Roggeveen seconded. All in favor, so voted.

Public Hearing to Consider Application for New Seasonal Wine/Malt Beverages Club License for Great Harbor Yacht Club, Inc., Michael Mooney, Manager for Premises Located at 23 Nobadeer Farm Road. Postponed to May 2009.

Public Hearing to Consider Application for New Seasonal All-Alcoholic Beverages Innholder License for Cliffside Beach, Inc. d/b/a Cliffside Beach Club, David C. Silva, Manager for Premises Located at 46 Jefferson Avenue, Nantucket. Chairman Kopko opened the public hearing. Attorney Richard Glidden, representing Cliffside Beach Club, spoke in favor of the application, noting the Planning Board has approved a Major Commercial Development for the property with conditions which he reviewed. Mr. Chadwick said he would like to see consistency therefore the license being requested should reflect the Planning Board language. Attorney Melissa Philbrick, representing a residential abutter, commended the Board for putting the Planning Board language into the license and said her client is concerned with potential public functions. Chairman Kopko closed the public hearing. A discussion followed on the area where liquor service should be allowed. Town Counsel noted that part of Cliffside's request is for liquor service on the beach, which is not addressed in the Planning Board conditions. A brief discussion followed on the type of license being applied for (Innholder versus Restaurant or Club). Chairman Kopko said more information is needed on the statute regarding the type of license requested. Mr. Reinhard moved to continue the hearing to 22 April 2009; Ms. Roggeveen seconded. All in favor, so voted.

Public Hearing to Consider Application for New Common Victualler License for Joseph V. Arno d/b/a Easy Street, Joseph V. Arno, Manager for Premises Located at 31 Easy Street, Nantucket. Chairman Kopko opened the public hearing. Attorney Ken Gullicksen, representing Easy Street, spoke in favor of the application, noting that Mr. Arno will be taking over management of the establishment after renting it out for the last twelve years. Chairman Kopko closed the public hearing. Mr. Reinhard moved to approve the Common Victualler license; Ms. Roggeveen seconded. All in favor, so voted.

Public Hearing to Consider Application for New Seasonal All-Alcoholic Beverages Restaurant License for Joseph V. Arno d/b/a Easy Street, Joseph V. Arno, Manager for Premises Located at 31 Easy Street, Nantucket. Chairman Kopko opened the public hearing. Attorney Ken Gullicksen, representing Easy Street, spoke in favor of the application. Chairman Kopko noted that a letter has been received by the Board from an abutter expressing concerns about noise, trespassing, and public use of a back door facing the abutter's driveway. Chairman Kopko closed the public hearing. Mr. Reinhard moved to approve the seasonal all-alcoholic beverages restaurant license; Ms. Roggeveen seconded. All in favor, so voted.

Public Hearing to Consider Application for New Common Victualler License for Carolina's Mini Mart, Esmeralda C. Tejada, Manager for Premises Located at 3 Hanabea Lane, Nantucket. Chairman Kopko opened the public hearing. Ms. Tejada was present for questions. Ms. Gibson said coffee is the only take-out item allowed by the special permit for the establishment. Chairman Kopko closed the public hearing. Mr. Reinhard moved to approve the Common Victualler license pursuant to the Planning Board permit conditions; Ms. Roggeveen seconded. All in favor, so voted.

TOWN MANAGER'S REPORT

Proposed Modification to Ad Hoc Fiscal Committee Membership. Ms. Gibson said previously the Board had voted to take itself off the committee make-up, but she recommends having one member each from the Board, School Committee, Finance Committee possibly as non-voting members, along with three members of the public and one member of the Advisory Committee of Non-voting Taxpayers (ACNVT). Chairman Kopko requested one additional at-large member be added as a voting member. A discussion followed about the make-up of the committee. Ms. Roggeveen moved to approve the committee structure as follows: two members of the public appointed by the Board; two members of the public appointed by the School Committee; one member of the ACNVT; one member of the Board; one member of the School Committee; and one member of the Finance Committee, with all members being voting members, and with the Town Manager, School Superintendent, and Finance Director being ex-officio members; Mr. Chadwick seconded. So voted 4-0. Mr. Atherton abstained from the vote.

Review of Proposed Taxi Advisory Committee (continued from 1 April 2009). Ms. Gibson noted that at the Board's April 1, 2009 meeting, the Taxi Association has suggested forming a taxi advisory committee. Ms. Gibson reviewed a draft charge and composition of the committee. Mr. Atherton said he feels the power should be with the Town Manager, including making the committee appointments. Mr. Reinhard moved to approve the taxi advisory committee as a standing committee under the jurisdiction of the Town Manager; Ms. Roggeveen seconded. All in favor, so voted.

SELECTMEN'S REPORTS/COMMENT

Review of Fuel Storage License Renewal for Harbor Fuel Tank Farm Located at 8 New Whale Street. Ms. Gibson said the Bulk Fuel Study Committee has been meeting regularly and she deferred to Assistant Town Manager Malachy Rice to give an update. Mr. Rice said the Board voted last spring to pursue relocation of the tank farm out of Town. He said a couple of weeks ago the Bulk Fuel Study Committee met and discussed extending the license for three to five years as opposed to ten years. He noted that Harbor Fuel Oil Corporation manager John Stackpole was present at the committee's meeting and seemed supportive of that approach. Mr. Rice recommended sending a letter to Mr. Stackpole informing him that the lease is likely to be renewed for a shorter length of time than ten years. Chairman Kopko asked Mr. Chadwick to request a written recommendation from the Bulk Fuel Study Committee. Mr. Atherton moved to approve sending a letter to Harbor Fuel Oil Corporation as suggested; Mr. Reinhard seconded. All in favor, so voted.

Update Regarding Nantucket Hunting Association Lease. Chairman Kopko explained that a condition of the ground lease was that ground had to be broken within 24 months of the lease signing, which was December 6, 2008, and at its 10 December 2008 meeting, the Board opted not to terminate the lease, instead notifying the Nantucket Hunting Association (NHA) that an agreement should be worked out within 120 days, and that after the 120 days were up, the Board would consider nullifying the lease. Mr. Reinhard noted that the 120 days Chairman Kopko referenced expires 9 April 2009, and that at the December 2008 meeting the Board reviewed its concerns with the ground lease. He said he and Mr. Chadwick, as authorized representatives of the Board, met with members of the NHA on 29 December 2008 and again reviewed the Board's concerns with the ground lease and the initial plan presented by the NHA. Mr. Reinhard said the Board is in receipt of a revised business plan submitted by the NHA on 9 April 2009 and that he

and Mr. Chadwick met with the NHA again on 13 April 2009. Mr. Reinhard said he feels the business plan still needs more detail and that he wants to be sure the NHA "can do what it says it can". He then outlined further concerns he has with the business plan and items he feels are lacking. A discussion followed whether action to terminate the lease should be taken tonight; Mr. Chadwick stressed that the agenda item as written was as an "update" only. A discussion then followed regarding the Board's continued concerns over the NHA's business plan and ground lease. Ms. Roggeveen said she feels there are still pieces missing from the business plan. Town Counsel Paul DeRensis said that the lease was not drafted by Town Counsel and he wants to see a standard form lease with reference to the updated law. Attorney Alison Zieff, representing the NHA, said the 13 April meeting with the NHA and Board representatives felt very productive and that they made "good progress" and noted she would like more feedback on the business plan. NHA president Steven Holdgate said he looks forward to continuing a working relationship with the Board and noted that there is a high frustration level within the NHA as there have been lots of delays that are out of their hands. Members of the audience then spoke with questions and concerns on the NHA's business plan and the ground lease. Dan Sabers of Wigwam Road noted that none of the concerns the neighbors have submitted to the Board and the NHA have been discussed tonight or dealt with within the business plan. Attorney Kevin Dale, representing the Russell's Way/Wigwam Homeowners Association, spoke in favor of the Board terminating the ground lease. Ms. Roggeveen said she feels the NHA has an obligation to address the various concerns and that the business plan submitted seems like a first effort and not the final document. Mr. Reinhard again reviewed his concerns with the ground lease. Mr. Atherton questioned why many of the concerns raised tonight have not been addressed as they have been raised often. The Board then discussed a further extension of the "standstill" agreement while retaining termination rights within the lease. Mr. Dale suggested the NHA supply all its information to the Board on 6 May 2009, and that the Board make a final determination on the ground lease on 13 May 2009. Mr. Atherton moved to extend the existing "standstill" agreement from 10 December 2008 with the right of termination language through 13 May 2009 with the condition that all documentation be presented by the NHA on 6 May 2009; Mr. Reinhard seconded. All in favor, so voted.

Mr. Atherton suggested the Town start a dialogue with Town Counsel regarding public/private access ways in Sconset along Baxter Road in response to the Planning Board's recent approval of the elimination of a public access way off Baxter Road. Mr. Reinhard said this is an upcoming agenda item for the Roads and Right of Way Committee in terms of preparing for alternate access and utility routes in Sconset and Madaket due to erosion.

Chairman Kopko said he would like the Board to schedule a workshop meeting with commercial haulers regarding the hauling of construction and demolition (C&D) waste.

The meeting was unanimously adjourned at 9:49 PM.

Approved the 18th day of November, 2009.

MARINE & COASTAL RESOURCES DEPARTMENT

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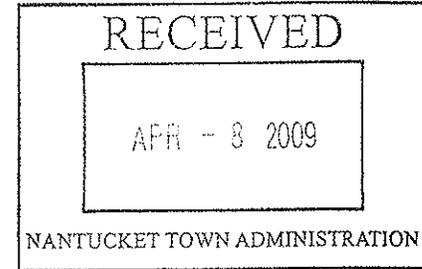
MEMO

To: Board of Selectmen
Malachy Rice
Dave Fronzuto

From: Jeff Carlson, Beach Manager

Date: April 8, 2009

Re: Proposed Beach Management Plan Changes



Attached please find a proposed addition to the beach management plan. This change is being proposed in response to some of the difficulties we have had in the past in relation to the openings and closure of beaches. It is being proposed to be in section 4 of the plan following the list of Town Owned/Operated Beaches. If there are any questions or concerns I would be happy to address them, and I will be at the public meeting on the 15th of April to discuss this proposed addition. Thank you for your attention to this matter.

4. Town owned and/or Managed Beaches-Beach Availability

4.2 Beach Availability

Beaches are constantly changing and need to be continually reviewed for public health and safety concerns. Some of these concerns may include but are not limited to water quality, public access and swimming/walking hazards. The services provided at each beach need to be adjusted to reflect current beach condition and public demand for services as well. These services may include but are not limited to lifeguarding, public restrooms, and public transportation.

4.3 Beach Assessment and Classification

4.3.1 Review

Prior to the end of the first week in May the Beach Manager will inspect each town-owned/operated beach for its physical condition. The documented inspection will include but will not be limited to public access, coastal erosion, and beach condition.

4.3.2 Classification

Following the assessment and prior to the end of the first week in May the Beach Manager will recommend a classification based on the inspection of each town-owned/operated beach using the following system. Other relevant town agencies (see section 6) will also submit any additional information or recommendation on the beach classification at this time. The official classification of each beach will be made by the Town Manager.

Unrestricted-these beaches have no restrictions are eligible for all services and are open to the public.

Restricted-these beaches are not eligible for all services due to an access issue or environmental concern. Some services may still be provided and are open to the public. In the case of an access issue, a specific point of access may be closed, but the beach is still usable by the public.

Closed-these beaches have a public health or safety concern and are not eligible for services and are closed to the public.

All restricted and closed beaches will be reviewed with all appropriate town agencies. Following review and agreement of the assessment of these beaches, notice will be issued to the public prior to Memorial Day of each year. All beaches will then be assessed by the Beach Manager on a regular basis until October 1 for any changes to beach conditions.