

BOARD OF SELECTMEN

Minutes of the Meeting of 18 May 2011. 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, Michael Kopko, Patricia Roggeveen, and Whiting Willauer. Chairman Atherton called the meeting to order at 6:00 PM.

The Board held a moment of silence for attorney Wayne Holmes, who passed away 12 May 2011. Chairman Atherton recognized Mr. Holmes's service to the Town, which included 18 years as Moderator, member of the Board of Selectmen, and chairman of the Citizen Advisory Committee for a Public Safety Facility.

I. BOARD ACCEPTANCE OF AGENDA

The Board unanimously accepted the agenda as printed.

II. ANNOUNCEMENTS

1. The Veterans of Foreign Wars Post 8608 will be holding its annual Memorial Day Parade on Sunday, 29 May 2011 at 1:00 PM.
2. A Special Town Election will be held on Tuesday, 14 June 2011 with polls open from 7:00 AM to 8:00 PM at Nantucket High School; the deadline for voter registration is Wednesday, 25 May 2011 at 8:00 PM.
3. Town Manager C. Elizabeth Gibson reviewed the 2011 committee/board/commission vacancies, noting that the 2011 timeline, list of committee openings, current committee membership list, and applications are all available on the Town's website (www.nantucket-ma.gov).
4. Ms. Gibson announced there will be an employee benefits fair Monday, 23 May 2011 at the Public Safety Facility Training Room.
5. Ms. Gibson announced there will be a special Board of Health meeting on Tuesday, 24 May 2011 at 1:30 PM at the 2 Fairgrounds Road conference room regarding mosquitoes and noted that a member of the Cape Cod Mosquito Control Project will be the guest speaker.
6. Assistant Town Manager Gregg Tivnan announced there will be an energy/net-metering meeting on Monday, 23 May 2011 at 2:00 PM at the 2 Fairgrounds Road conference room, noting that the public is welcome to attend.

III. PUBLIC COMMENT

None.

IV. NEW BUSINESS

None.

V. APPROVAL OF MINUTES, WARRANTS, PENDING CONTRACTS

1. Approval of Minutes of 16 March 2011 at 6:00 PM; 4 May 2011 at 6:00 PM. The approval of minutes was postponed to a future Board meeting.

2. Approval of Payroll Warrant for Week Ending 15 May 2011. The payroll warrant for week ending 15 May 2011 was approved by the unanimous consent of the meeting.

3. Approval of Treasury Warrant for 18 May 2011. The treasury warrant for 18 May 2011 was approved by the unanimous consent of the meeting.

VI. CITIZEN/DEPARTMENTAL REQUESTS

1. Marine and Coastal Resources Department: Request for Acceptance of Gift of \$1,550 from Nantucket Shellfish Association for Summer Intern Program. Marine Superintendent Dave Fronzuto reviewed the request. Mr. DeCosta moved to accept the gift as presented; Ms. Roggeveen seconded. All in favor, so voted.

2. Town Administration: Request for Acceptance of Gift of \$40,000 from ReMain Nantucket for Renewable Energy Outreach and Public Relations Coordinator. Ms. Roggeveen recused herself from this matter. Mr. Tivnan reviewed the request, noting it is to fund a one-year service contract for an energy coordinator. He added this is the first of two gifts from ReMain, totaling \$100,000 for energy initiatives, and the hope is to eventually establish a municipal and Town-wide energy office. Mr. Tivnan answered questions from the Board, noting there are no out-of-pocket expenses for the Town. Mr. Kopko moved to accept the gift as presented; Mr. DeCosta seconded. So voted 4-0. Chairman Atherton thanked ReMain for its generous gift.

3. Thomas F. Curley: Request for Acceptance of Gift of \$10,000 from Thomas F. and Margaret C. Curley for Thomas F. Curley Scholarship Fund. Ms. Gibson reviewed the gift, noting the Curleys have generously added to their scholarship since it was established a number of years ago. Ms. Roggeveen moved to accept the gift as presented; Mr. DeCosta seconded. All in favor, so voted.

4. Request for Approval of Application of Madaket Sunset LLC d/b/a West End Market for Change of Manager for Seasonal All-Alcoholic Beverages Package Store License, Anderson Grennan, Manager, for Premises Located at 324 Madaket Road. Ms. Gibson reviewed the request for change of manager. Mr. Kopko moved to approve the request as presented; Mr. DeCosta seconded. All in favor, so voted.

VII. PUBLIC HEARINGS

1. Public Hearing to Consider Amendments to Chapter 231, Town of Nantucket Harbor Regulations. Chairman Atherton opened the public hearing. Mr. Fronzuto said the proposed amendments to the current regulations are an attempt to strengthen the regulations to preclude the Town from another "Miss China incident"; he answered questions from the Board. Attorney Bill Hewig from Town Counsel's office reviewed the amendments to the regulations, noting they allow the Town to take action against derelict vessels. Mr. Kopko said he was concerned about the term "unsuitable" in the amendments. Discussion followed among Board members and Mr. Hewig. Mr. DeCosta moved to close the public hearing; Ms. Roggeveen seconded. All in favor, so voted. Mr. DeCosta moved to approve the amendments to the Harbor Regulations as presented; Ms. Roggeveen seconded. So voted 4-1. Mr. Kopko was opposed. Following further discussion, it was the Board consensus to make the amendments effective upon their approval by the Massachusetts Department of Fish and Game, Office of Law Enforcement. Mr. DeCosta accepted this as an amendment to his motion. Mr. Kopko asked if the Harbor and Shellfish Advisory Board had

reviewed the harbor regulation amendments and made a recommendation. Mr. Fronzuto said they did not.

2. Public Hearing to Consider Petition for Verizon New England, Inc. and Massachusetts Electric Company Plan # 2011C-09 to Relocate Eight Poles on Cliff Road: 44/41, 42, 43, 44, 45, 46, 47 and 48; to Remove One Pole on Cliff Road: 44/49; to Place One New Pole on Cliff Road: 44/42PB; All Regarding the Cliff Road Bike Path Extension. Ms. Roggeveen recused herself from this matter. Chairman Atherton opened the public hearing. Ken Horyn of Verizon spoke in favor of the petition. Mr. Kopko asked why the petition is only coming before the Board now, when the Cliff Road bike path has already been paved with a base coat. Mr. Horyn said Verizon had just recently received the request from the Town. Ms. Gibson noted that the Town has sent multiple requests for the required paperwork over the past few months with no response. Steve Bretton, an engineer with National Grid, said that National Grid had been dealing with a request from neighbors to underground the utilities along the new section of the Cliff Road bike path, but that did not go forward as the cost was prohibitive. Mr. Horyn and Mr. Bretton answered questions from the Board. A discussion followed among Board members regarding the undergrounding of utility wires downtown and the associated fees and the Board asked Mr. Horyn for a status update on that project. Mr. Horyn said the Board should put its request in writing. Sally Wallace of 124 Cliff Road said she had never been contacted by the utility companies and that she would have been willing to contribute to underground the utilities associated with the Cliff Road project. She added that she had already paid to have a pole privately removed from in front of her property and is now being told one is being relocated back there. Chairman Atherton closed the public hearing. Mr. DeCosta said he is concerned about Ms. Wallace's situation. Mr. Kopko said he feels someone "dropped the ball", that Memorial Day is two weeks away and the poles need to be moved out of the bike path, and suggested that the utility companies pay to underground the wires. Ms. Gibson recommended approving the petition on the condition that the utility companies meet with Ms. Wallace. Discussion followed. Mr. DeCosta moved to approve Verizon/National Grid Plan # 2011C-09 on the condition that the utility companies meet with Ms. Wallace of 124 Cliff Road to find a resolution to the issues at her property; Mr. Kopko seconded. So voted 4-0. Mr. Kopko said he would like a response from National Grid and Verizon on how this situation occurred. Chairman Atherton recommended that the Transportation Planner also meet with the utility companies.

3. Public Hearing to Consider Petition for Nantucket Electric Company Plan # 10726248 to Install Conduit, Handholes and Pull Box for Utility Work on Cliff Road. Ms. Roggeveen recused herself from this matter. Chairman Atherton opened the public hearing. Steve Bretton of National Grid reviewed the request. Chairman Atherton closed the public hearing. Mr. Kopko moved to approve National Grid Plan # 10726248 on the condition that National Grid meets with Ms. Wallace of 124 Cliff Road to find a resolution to the issues at her property; Mr. DeCosta seconded. So voted 4-0.

4. Public Hearing to Consider Petition for National Grid Plan # 9437929 to Install Underground Conduit from Pole 4 100' Westerly and 35' Northerly Across Vesper Lane into Nantucket Cottage Hospital. Ms. Roggeveen recused herself from this matter. Chairman Atherton opened the public hearing. Steve Bretton of National Grid reviewed the request and answered questions from the Board, noting the plan is to tunnel under Vesper Lane. Chairman Atherton closed the public hearing. Mr. DeCosta moved to approve National Grid Plan # 9437929 as presented; Mr. Kopko seconded. So voted 4-0.

5. Public Hearing to Consider Petition for National Grid Plan # 10050509 to Install 2-4" Conduit Crossing South Beach Street; 4-4" Conduit Crossing Whalers Lane. Ms. Roggeveen recused herself from this matter. Chairman Atherton opened the public hearing. Steve Bretton of National Grid reviewed the request and answered questions from the Board, noting the petition is in regard to a service request from the Nantucket Yacht Club and that National Grid will tunnel under South Beach Street.

At 7:02 PM Mr. Willauer left the meeting.

Mr. DeCosta said he feels the work should not occur until after Labor Day. Peter McEachern, general manager of the Nantucket Yacht Club said the work is not expected to commence until October 2011. Chairman Atherton closed the public hearing. Mr. DeCosta moved to approve National Grid Plan # 10050509 subject to the work not commencing until after 15 September 2011; Mr. Kopko seconded. So voted 3-0.

6. Public Hearing to Consider Application for New Seasonal Wine/Malt Beverages Restaurant License for Faith's Seafood Shack Nantucket, LLC d/b/a Faith's Seafood Shack at the Rotary, James A. Shephard, Manager, for Premises Located at 1 Sparks Avenue. Chairman Atherton opened the public hearing. There was no public comment. Chairman Atherton closed the public hearing.

At 7:05 PM Mr. Willauer returned to the meeting.

Ms. Roggeveen moved to approve a new seasonal wine/malt alcoholic beverages restaurant license for Faith's Seafood Shack at the Rotary as presented; Mr. DeCosta seconded. All in favor, so voted.

7. Public Hearing to Consider Application for New Common Victualler License for Faith's Seafood Shack Nantucket, LLC d/b/a Faith's Seafood Shack at the Rotary, James A. Shephard, Manager, for Premises Located at 1 Sparks Avenue. Chairman Atherton opened the public hearing. There was no public comment. Chairman Atherton closed the public hearing. Mr. DeCosta moved to approve a Common Victualler license for Faith's Seafood Shack at the Rotary as presented; Ms. Roggeveen seconded. All in favor, so voted.

8. Public Hearing to Consider Application for Alteration of Premises of Annual All-Alcoholic Beverages Restaurant License for MGILL Company, Inc. d/b/a The Hen House, Michael Gillies, Manager, for Premises Located at 1 Chin's Way. Chairman Atherton opened the public hearing. There was no public comment. Chairman Atherton closed the public hearing. Applicant Michael Gillies answered questions from the Board, noting he recently received a variance from the Planning Board to eliminate four parking spaces for the proposed outdoor patio. Mr. DeCosta moved to approve the alteration of premises for The Hen House as presented; Ms. Roggeveen seconded. All in favor, so voted.

VIII. TOWN MANAGER'S REPORT

1. Review of Letter of Understanding for Surfside Residents Regarding Surfside-area Roads. Ms. Gibson explained that two citizen articles were submitted for the 2011 Annual Town Meeting regarding Surfside-area roads, with the intent for the Town to take the Boulevarde, a portion of

Lovers Lane, Okorwaw Avenue, and Monohansett Road and repair them. She added the articles were ultimately not acted upon at Annual Town Meeting. She added that there is a ballot question on the 14 June 2011 Special Town Election for a debt exclusion override regarding the Surfside-area roads. Ms. Gibson said if approved, the funds would be used to acquire the roads and whatever funding is left could be used toward road repairs in that area. She noted that repairs cannot be made to private roads without a petition from abutters and 100% payment through betterments per the Town Code. Ms. Gibson said that because such a petition is unlikely to come forward, and because the Board has agreed to move forward with the takings of the Surfside-area roads, a letter of understanding (attached) has been proposed, which is non-binding and could serve as a document for the Surfside Area Planning Group to present to the residents of the area. Some discussion followed among Board members. Chris Magee of the Surfside Area Planning Group said the letter will help better communicate to the area residents what the plans of the Town are regarding these roads. Mr. Magee answered questions from the Board. Mr. Kopko moved to approve the letter of understanding as written with the understanding that it is non-binding; Ms. Roggeveen seconded. All in favor, so voted.

2. Update Regarding Resolution to FY 2010 Audit Issues. Ms. Gibson noted that the Finance Department's monthly updates follow the issuance of the FY 2010 audit which came with a qualified opinion and a number of material weaknesses, noting the Finance Department is actively working on resolutions. Assistant Finance Director Irene Larivee reviewed progress made through April regarding the FY 2010 audit management letter, the Department of Revenue schedule, and the recommendations contained in a 2008 report by the Abrahams Group.

At 7:20 PM Mr. DeCosta left the meeting; he returned at 7:22 PM.

Ms. Larivee and Treasurer Deborah Weiner answered questions from the Board. Chairman Atherton said he feels a lot of work is underway. Ms. Roggeveen noted that the Finance Department transition team was fully present. Ms. Gibson acknowledged the team and its hard work as well, and said they are working hard but there is still a lot of work to be done.

Ms. Gibson gave an update on the May monthly Cape Cod Managers meeting held in Brewster, noting the discussion covered annual town meetings, Green Communities attempts, overrides, energy plans, code enforcement consolidations, and valet parking. Ms. Gibson then gave a brief update on the Town's Code Enforcement consolidation and answered questions from the Board.

IX. SELECTMEN'S REPORTS/COMMENT

1. Revisit Pedicab Regulations. Chairman Atherton explained that the Board voted 2-2 at its 4 May 2011 meeting whether to adopt pedicab regulations, noting that Mr. Willauer was absent from that meeting. He said that if the Board would like to revisit the pedicab regulations, a new public hearing would need to be held and advertised for three weeks. Chairman Atherton spoke in favor of having pedicab regulations in place. Mr. Willauer noted that he has spoken with people from other communities from various parts of the country and the feedback he received is that pedicabs would work well. Mr. Kopko moved to revisit the pedicab regulations and post a new public hearing; Mr. Willauer seconded. Discussion among Board members followed. So voted 3-2. Mr. DeCosta and Ms. Roggeveen were opposed.

2. Committee Reports. Mr. Kopko gave an update on the monthly Cape Cod Selectmen and Councilors' Association meeting, which was held 14 May 2011 on Nantucket. He noted that Congressman Keating and Representative Madden were present at the meeting. Mr. Kopko also reported on recent Audit Committee and Nantucket Community Television meetings. Ms. Roggeveen updated the Board on last week's Board of Health meeting, and suggested that the Board work with the Board of Health to take on the role of coordination of the Council for Human Services. She reminded the Board of the special Board of Health meeting on 24 May 2011 regarding mosquitoes. Mr. Willauer noted the Nantucket Shellfish Association is holding its annual meeting on 24 May 2011 at 5:00 PM at the PSF Community Room as 4 Fairgrounds Road. Mr. DeCosta said he attended his first Harbor Plan Implementation Committee, and although there was no quorum, those present took the time to "get him up to speed". He noted that Town Counsel Jeanne McKnight attended a recent Community Preservation Committee where she reviewed preservation restrictions. Mr. DeCosta reported on a recent parking workshop he attended held by ReMain. Chairman Atherton reviewed the Board's goals meeting held earlier today, noting there was a clear consensus among Board members to focus on three items for FY 2012: improved financial management, long-term wastewater and water quality plans, and long-term municipal facilities management. He noted the Board's goals will be on its 25 May 2011 agenda for further discussion.

IX. ADJOURNMENT

The meeting was unanimously adjourned at 8:12 PM.

Approved the 1st day of June, 2011.

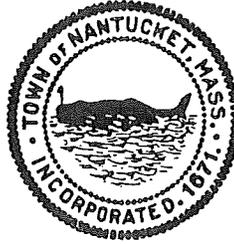
BOARD OF SELECTMEN
18 MAY 2011 – 6:00 PM
PUBLIC SAFETY FACILITY COMMUNITY ROOM
4 FAIRGROUNDS ROAD
NANTUCKET, MASSACHUSETTS

List of documents used at the meeting:

- VI. 1. Memo from Marine and Coastal Resources Department, re: gift acceptance; letter from Nantucket Shellfish Association, re: gift
- VI. 2. Letter from ReMain Nantucket, re: gift
- VI. 3. Letter from Thomas F. Curley, re: gift; information on Thomas F. Curley Scholarship
- VI. 4. Cover letter and application for change of manager for West End Market
- VII. 1. Memo from Marine and Coastal Resources Department, re: Harbor Regulations amendments summary; amended Harbor Regulations; portion of minutes of Board of Selectmen meetings of 21 May 2008 and 4 June 2008
- VII. 2. Cover letter, petition, maps from Verizon/National Grid, re: Cliff Road work; letter from Eric Holch; emails from Town department heads
- VII. 3. Cover letter, petition, maps from National Grid, re: Cliff Road work
- VII. 4. Petition and maps from National Grid, re: Vesper Lane work
- VII. 5. Petition and maps from National Grid, re: Whalers Lane/S. Beach Street work; emails from Town department heads
- VII. 6. ABCC application for new liquor license, re: Faith's Seafood Shack at the Rotary
- VII. 7. Cover letter and application for new Common Victualler license, re: Faith's Seafood Shack at the Rotary
- VII. 8. Cover letter, ABCC application, maps for alteration of premises, re: The Hen House
- VIII. 1. Draft letter of understanding for Surfside residents; emails from Chris Magee, Town Manager, Town Counsel, re: letter
- VIII. 2. Memo from Assistant Finance Director, re: Finance Department progress/April 2011; timeline spreadsheet
- IX. 1. Email from PJ Antonik, re: pedicabs
- IX. 2. Board of Selectmen FY 2012 Goals and Objectives

Town and County of Nantucket
Board of Selectmen • County Commissioners

Rick Atherton, Chairman
Robert R. DeCosta
Michael Kopko
Patricia Roggeveen
Whiting Willauer



16 Broad Street
Nantucket, Massachusetts 02554

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

C. Elizabeth Gibson
Town & County Manager

Letter of Understanding for Surfside Area Residents

Pursuant to the March 9, 2011 Board of Selectmen's meeting, it was agreed that the Board would support the taking of portions of the Boulevarde, Lovers Lane, Okorwaw Avenue and Monohansett Road as public ways and seek the funding necessary to begin the process in a timely manner. It was further agreed that an equitable apportionment of the financial burden for the reconstruction of the roads referenced above would be 30% - 70%, with 30% being borne by abutters and access users and 70% being borne by the town. The specifics of betterment assessments will need to be determined. Access users are to be identified by the Roads and Right-of-Way Committee.

In support of this understanding, the Surfside Area Planning Committee will begin to educate the abutters and access users of these roads in order to secure the necessary positive support for this project and all of its cost sharing components.

It is in the spirit of this understanding that all parties move forward and that contingent upon the approval of a ballot question at a special election scheduled for June 14, 2011, that the legal taking work will begin in 2011.

Nothing contained in this Letter of Understanding shall be construed as limiting the authority and discretion of the Board of Selectmen under the General Laws, the Town or County Charters and bylaws and votes of Town Meeting, to make a final decision with respect to the assessment of road betterments determined by the Board of Selectmen to be in the best interests of the Town.

May 18, 2011
Nantucket Board of Selectmen

