

BOARD OF SELECTMEN

Minutes of the Meeting of 14 September 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.

I. BOARD ACCEPTANCE OF AGENDA

The Board unanimously accepted the agenda as presented.

II. ANNOUNCEMENTS

1. Town Manager C. Elizabeth Gibson announced that the annual Island Fair is being held this Saturday, 17 September from 10:00 AM to 5:00 PM and Sunday, 18 September 2011 from 11:00 AM to 4:00 PM at Tom Nevers Field.

III. PUBLIC COMMENT

1. Carolyn Walsh spoke regarding the possible closure of the mid-island post office, noting she is leading a grass-root effort to avert closure. She requested that the Board endorse her efforts and she encouraged citizens to support the effort as well. Mr. Willauer noted that the Commission on Disability is writing letters to the Federal government as well, as the mid-island post office is the only one which is properly accessible. Chairman Atherton asked Town Administration to work with Ms. Walsh to draft a letter for the Board to sign. Ms. Walsh added that her group is developing a website and organizing protests at all three post office locations.

2. Peter Brace stated that the U.S. Fish and Wildlife Service has released a draft conservation plan for Great Point, and the agency is holding public meetings on 15 September 2011 at the Nantucket Inn at 1:00 PM and 6:00 PM. He urged people to attend, noting that the comment period on the plan is 1 October 2011; and, that significant changes are being proposed.

IV. NEW BUSINESS

None.

V. APPROVAL OF MINUTES, WARRANTS, PENDING CONTRACTS

1. Approval of Payroll Warrant for Week Ending 11 September 2011. The payroll warrant for week ending 11 September 2011 was approved by the unanimous consent of the meeting.

2. Approval of Treasury Warrant for 14 September 2011. The treasury warrant for 14 September 2011 was approved by the unanimous consent of the meeting.

3. Approval of Pending Contracts for 14 September 2011. Ms. Gibson reviewed the various pending contracts and answered questions from the Board. Housing Specialist Susan Witte answered questions from the Board regarding the STG Consultant Services contract. The pending contracts for 14 September 2011 were approved by the unanimous consent of the meeting.

VI. CITIZEN/DEPARTMENTAL REQUESTS

1. Treasurer: Request for Approval of Massachusetts Water Pollution Abatement Trust Loan in the Amount of \$1,000,000 Pursuant to Article 32 of 2011 Annual Town Meeting, Septic Financing Loan. Treasurer Deborah Weiner noted the \$1 million loan is for a community septic management

program to be administered by the Board of Health and which was approved at the 2011 Annual Town Meeting. She added that \$2 million was approved but the Town is seeking only \$1 million at this time. Ms. Roggeveen read the motion to approve the MWPAT loan as presented (attached); Mr. DeCosta seconded. Ms. Weiner answered questions from the Board. On the motion, all in favor, so voted.

2. Marine and Coastal Resources Department: Request for Acceptance of Gift of \$47,500 from Nantucket Land Council for Shellfish Propagation Operation. Marine Superintendent Dave Fronzuto explained that the Nantucket Land Council set up a challenge grant initiative and raised \$47,500 for the Town Biologist's shellfish propagation efforts. He acknowledged the Phelon family who donated \$20,000, as well as the other donors, for their generosity. Nantucket Land Council executive director Cormac Collier said the Land Council put forward \$23,750 to match an equal donation from the community, and he praised Town Biologist Tara Riley for the shellfish propagation work she's doing. He noted that many donations came forth, including from the Phelons, after the donors were taken on a tour of the shellfish propagation operation. Mr. Kopko moved to accept the gift with thanks; Mr. Willauer seconded. All in favor, so voted.

VII. TOWN MANAGER'S REPORT

1. Monthly Update Regarding Resolution to FY 2010 Audit Issues. Ms. Gibson introduced Michael Daley of Financial Advisory Associates, Inc. who has been assisting with Finance Department operational and financial management improvements. Mr. Daley noted he has been working with the Town since the beginning of August 2011 and said that the Town's biggest issues involve cash accounting and reconciliation; he added that this matter has been worked on and is now up to date. Mr. Daley reviewed work which has been completed relating to the FY 2010 audit management letter and answered questions from the Board. Finance director Irene Larivee also answered questions from the Board.

2. Town Administration: Review and Adoption of Financial Policies. Ms. Gibson recommended the Board adopt seven financial policies which have been presented to it, noting that both the Finance Committee and Audit Committee have offered comments on the policies. She stated that Town Administration does question one comment pertaining to the User Fee policy and feels it is not necessary. Ms. Larivee answered questions from the Board regarding the various policies. Ms. Roggeveen moved to adopt the policies as discussed and amended by the Board; Mr. DeCosta seconded. All in favor, so voted.

Ms. Gibson updated the Board on September's monthly Cape Cod Manager's meeting which was held on Nantucket last week. She reviewed topics discussed, including hurricane preparedness, Saturday town meetings, and mooring wait lists, among others.

Ms. Gibson noted that Mr. Kopko and she attended a Cape Cod Selectmen and Councilor's Association meeting on Friday, 9 September 2011 in Bourne, where the topic was wastewater. She and Mr. Kopko noted that Nantucket is ahead of many Cape communities in terms of sewerage but Nantucket faces similar funding issues with upcoming sewer projects.

VIII. SELECTMEN'S REPORTS/COMMENT

1. Discussion Regarding Road Improvements. Chairman Atherton noted that the last time the Board discussed the FY 2012 \$900,000 appropriation for road improvements, the Town was

planning to pave sections of Polpis and Madaket Roads and Tennessee Avenue. He asked what the Town is planning to do with any remaining funds. Assistant Department of Public Works director Mohamed Nabulsi explained that about \$800,000 of the budget will be used as planned, noting that he has recommendations for any remaining funds but he won't know how much money is left until the current road paving projects are complete.

2. Review of Town Manager Performance Evaluation Form. Chairman Atherton noted that the Board has a proposed revised draft version of the Town Manager's evaluation form, and a policy which states that an annual evaluation needs to be undertaken by 30 September 2011. Ms. Roggeveen reviewed some issues she had last year as chair preparing a summary report as noted in the policy. Board discussion followed. Mr. Kopko spoke in favor of going back to a five-point rating scale versus the revised proposed three-point scale. Mr. DeCosta said he feels doing an evaluation now is premature and the Board should wait until after town meeting once the budget cycle is over and the Town Manager is closer to accomplishing the fiscal year goals. Mr. Kopko concurred, adding the Board should take time to improve the form. Chairman Atherton suggested the form be brought back to the Board in 30 days, during which time Mr. Willauer and Ms. Roggeveen will assist with some language changes. The Board agreed.

3. Committee Reports. Mr. Willauer reported on this morning's Ad Hoc Budget Work Group meeting and the proposed Madaket wind turbine. Chairman Atherton reviewed some recent NP&EDC agenda items, included the Siasconset Beach Preservation Fund and an Affordable Housing Trust Fund (AHTF) application to the Community Preservation Committee. Mr. Willauer noted that there was no quorum at the 12 September 2011 AHTF meeting which he feels is problematic as business can't be conducted. Mr. DeCosta suggested that the meeting time be adjusted.

Chairman Atherton reported on a meeting with staff of the Attorney General's office held this morning regarding the Airport, which was attended by Ms. Gibson, Chairman Atherton, Airport Commission chair Foley Vaughan, Attorney John Giorgio from Town Counsel's office, and Town Procurement Officer Diane O'Neil. Ms. Gibson read a prepared press release (attached). Chairman Atherton said he feels the Town's recent actions to issue a Request for Proposal for a forensic audit and operational and management review of the Airport and ensuring that all Airport procurement matters go through the Town's Procurement Office effective immediately were positively received by the Attorney General's staff. Ms. Roggeveen expressed concern that the full Board, as the Airport Commission appointing authority, was not included in the meeting. Chairman Atherton and Ms. Gibson answered questions from the Board. Mr. Kopko stated that the community is looking for accountability and the Board should consider "unappointing" some Airport Commissioners. Airport Commission member Arthur Gasbarro said that he has been attempting to propose improvements to create accountability, noting that minutes are now up to date on the Airport's website but, not the Town's website, and he is also trying to have the Commission meetings moved to the Public Safety Facility. Mr. DeCosta said it is important that the Airport Commission realizes it works for the Board of Selectmen and answers to the Board.

IX. ADJOURNMENT

The meeting was unanimously adjourned at 8:17 PM.

Approved the 28th day of September, 2011.

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

List of documents used at the meeting:

- V. 3. Pending contracts spreadsheet for 14 September 2011; email between Town Counsel, Planning Specialist and Town Administration; redlined and clean copies of STG contract
- VI. 1. Email from Treasurer; loan vote language
- VI. 2. Memo from Marine Superintendent; copy of gift check
- VII. 1. Memo from Finance Director, re: Finance Department progress; combined timeline
- VII. 2. Email from Finance Director; draft policies (7 total)
- VIII. 1. DPW roads map
- VIII. 2. Memos from Human Resources Director; draft revised Town Manager evaluation form

VOTE

- (1) That the Town shall issue a bond or bonds in an aggregate principal amount not to exceed \$1,000,000 (the "Bonds") pursuant to Chapters 29C and 111 of the General Laws and a vote of the Town passed April 4, 2011 (Article 32), which authorized a total borrowing of \$2,000,000;
- (2) That in anticipation of the issuance of the Bonds the Treasurer is authorized to issue an interim loan note or notes (the "Notes") from time to time in an aggregate principal amount not to exceed \$1,000,000;
- (3) that each Bond or Note shall be issued as a single registered security, and sold to the Massachusetts Water Pollution Abatement Trust (the "Trust") at a price determined pursuant to the Loan Agreement;
- (4) that the Treasurer is authorized to determine the date, the form, the maximum interest rate and the principal maturities of each Bond and Note, and to execute a Loan Agreement or Agreements with the Trust with respect to the sale of the Bonds and Notes, such date, form and maturities and the specific interest rate or rates of the Bonds and Notes to be approved by a majority of the Board of Selectmen and the Treasurer and evidenced by their execution of the Bonds or Notes;
- (5) that all action taken to date by the Town and its officers and agents to carry out the Project and its financing, including the execution of any loan agreement by the Treasurer, are hereby ratified, approved and confirmed; and
- (6) that the Treasurer and the other appropriate Town officials are each hereby authorized to take any and all actions necessary and convenient to carry out the provisions of this vote, including execution and delivery of the Loan Agreement or Agreements and the Project Approval Certificate and Regulatory Agreement or Agreements relating to the Project.

TOWN OF NANTUCKET

PRESS RELEASE

September 14, 2011

Pursuant to a request from the Attorney General's Business and Labor Bureau, Fair Labor Division for a meeting with Town officials regarding recent issues about Airport procurement practices, Chairman of the Board of Selectmen Rick Atherton, Chairman of the Airport Commission Foley Vaughan, Town Manager Libby Gibson, Town Counsel John Giorgio and the Town's Chief Procurement Officer Diane O'Neil met with representatives from the Attorney General's office on Wednesday, September 14, 2011.

The Attorney General requested the meeting in order to provide town officials with the Attorney General's preliminary investigative findings regarding Airport procurement practices. The general findings include:

- failure to require proper prevailing wage documentation on certain Airport construction projects as required by law
- a closed system of bidding that the airport has developed to avoid procurement requirements
- repeated instances of possible bid splitting
- a practice of excessive change orders leading to unwarranted incremental increases in the scope of services on certain projects
- lack of written contracts and/or specifications for work
- the possibility of inappropriate "bartering" exchanges with vendors
- back-dating bills or contracts.

The Attorney General cited specific violations of Massachusetts procurement laws, including:

- renovations to restaurant space in the airport terminal without compliance with the designer selection law and public bidding construction laws
- improper bidding of the airport landscape project which included the construction of a gazebo
- misapplication of the exemption from bidding for "aviation uses"
- telephone system work in apparent violation of bidding laws.

The Attorney General's representatives also indicated that concurrent or future involvement of other state agencies may occur regarding these issues, such as the State Ethics Commission, Open Government Division of the Attorney General's office, and the Inspector General's office.

The Attorney General's office is planning to issue a report of its findings, including a compliance order, sometime this fall.

Town officials informed the Attorney General that the Town is in the process of developing a Memorandum of Understanding which will be signed by the Board of Selectmen and the Airport Commission for the centralization of all Airport procurements under the Town's Chief Procurement Officer.

Earlier this week the Town also issued a Request for Proposals for a forensic audit and management review of the Airport. The Town will share a copy of the audit report with the Attorney General when it is completed sometime in the early spring of 2012.

Town officials present at the meeting indicated that the town will fully cooperate with the Attorney General's investigation and indicated that they are fully committed to bringing the Airport into compliance with all laws of the Commonwealth relating to procurement and other matters.

CONTACT: Rick Atherton, Chairman/Board of Selectmen

DATE: September 14, 2011