

BOARD OF SELECTMEN

Minutes of the Meeting of 14 October 2009. The meeting took place in the Court Room, Town and County 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 6:02 PM.

ANNOUNCEMENTS

Applications for the Human Services Collaborative Work Group are due Friday 16 October 2009 for a public hearing to be held 21 October 2009. Appointments are to be made 28 October 2009. Seats are also available for the Sewer Act Implementation Work Group.

Chairman Kopko gave an update on the Board's 8 October 2009 legal services discussion, noting the Board consensus is to look into hiring an outside consultant to independently review the Town's legal services. Mr. Atherton said he would like the discussion to come to a conclusion. Town Manager C. Elizabeth Gibson noted she has drafted a scope of services for a legal services consultant and is looking at some names of possible consultants. Chairman Kopko agreed to put the matter on next week's agenda.

PUBLIC COMMENT

None.

APPROVAL OF MINUTES, WARRANTS, PENDING CONTRACTS

Approval of Payroll Warrant for Week Ending 11 October 2009. The payroll warrant for week ending 11 October 2009 was approved by the unanimous consent of the meeting.

Approval of Treasury Warrant and Pending Contracts for 14 October 2009. Department of Public Works Director Jeff Willett reviewed change order # 3 for the downtown stormwater improvements phase I project. The treasury warrant and pending contracts for 14 October 2009 were approved by the unanimous consent of the meeting.

CITIZEN/DEPARTMENTAL REQUESTS

Planning Office: Request for Approval of Affordable Housing Trust Fund (AHTF) Trustee Agreement. Housing Specialist Susan Bennett Witte noted that the Selectmen are all trustees of the Affordable Housing Trust, and that the Massachusetts General Law adopted at the 2009 Annual Town Meeting requires trustees to execute a Trustee Agreement. Mr. Atherton reviewed the powers of the AHTF. Mr. Reinhard moved to approve the Affordable Housing Trust Fund Trustee Agreement (attached); Ms. Roggeveen seconded. All in favor, so voted.

PUBLIC HEARINGS

Public Hearing to Consider Granting Proposed Renewal Cable Television License by the Town of Nantucket to Comcast. Chairman Kopko opened the public hearing. Ms. Gibson said the cable television license with Comcast expired in 2007 and negotiations have been ongoing ever since. Town Counsel Rob Hillman said he has been working on the license renewal for the Town and that the Board is now acting as the issuing authority under state and federal statutes for voting on the contract. Attorney Hillman reviewed a summary of the renewal process and said the Board needs to make two determinations: 1) does Comcast have the ability to manage the contract, and 2) is the proposal reasonable to meet Nantucket's cable television needs. He noted that this license renewal is Nantucket's first to include a provision for a public, education, and governmental (PEG) access channel, and said the renewal includes a 3% franchise fee which is estimated to generate \$170,000

annually to be used to fund a PEG program. A discussion followed and Attorney Hillman answered various questions from the Board regarding the PEG channel. Mr. Chadwick proposed having a ballot question regarding the funding of a PEG channel. The Chairman then allowed questions from the audience. Inquirer & Mirror reporter Jason Graziadei asked what the franchise fee is going to cost the average subscriber. Comcast representative Mary O'Keefe said for a \$100 cable bill a subscriber will pay a \$3 franchise fee. Arthur Gasbarro spoke in favor of the PEG channel but noted he had hoped for a 5% franchise fee. Chairman Kopko closed the public hearing. Mr. Reinhard moved to approve the cable television license renewal with Comcast as presented; Mr. Atherton seconded. So voted 4-1. Mr. Chadwick was opposed.

TOWN MANAGER'S REPORT

Review Status of FY 2011 General Fund Budget Projections. Ms. Gibson said there will be new revenue from local options meal and room taxes which were adopted at the 21 September 2009 Special Town Meeting. A discussion followed among Board members and Ms. Gibson on the Solid Waste Enterprise Fund (SWEF) becoming self-sustaining vs. possibly being absorbed into the General Fund. Ms. Gibson noted the SWEF is the only enterprise fund which gets a subsidy from the General Fund, but added the SWEF is not the only problem with the General Fund as local revenue is also significantly down, absent the new revenue from the Special Town Meeting vote. Chairman Kopko said he felt the landfill is an essential service of the Town and should be paid for by the tax base. Assistant Finance Director Irene Larivee gave an update on the FY 2011 General Fund budget, noting that as of today the projected deficit is \$3,637,464 which is down since September due to an estimated \$1,000,000 of new revenue from the local options meal and room taxes discussed by Ms. Gibson. Ms. Larivee noted the General Fund budget is affected by pressure points such as state aid being projected to decrease, new growth not being expected to increase, and the SWEF deficit, and said programs or personnel will need to be reduced as a result. Ms. Gibson gave a brief update on Waste Options Nantucket (WON), noting Administration has been meeting regularly with WON to discuss matters such as construction and demolition (C&D) shipping, net recyclables, compost, and the progress of the accelerated landfill mining program.

Ms. Gibson said the Nantucket Land Council has been promoting biodegradable trash bags and noted that if the Board decides to take the step of requiring biodegradable bags, the bags will need to be locally accessible and available.

Ms. Gibson requested the Board approve a gift of over \$50 from the Stop & Shop for the upcoming Teen Center Open House. Mr. Reinhard moved to approve the gift of over \$50 for the Teen Center Open House; Mr. Atherton seconded. All in favor, so voted.

SELECTMEN'S REPORTS/COMMENT

Committee Appointments: Community Preservation Committee, Council for Human Services, Scholarship Committee. Chairman Kopko noted there are three seats available for the Council for Human Services and four applicants. By paper ballot, Dorothy Hertz and Linda Carpenter were appointed to three year terms, said terms to expire June 30, 2012; Maria Pena was appointed to a two year term, said term to expire June 30, 2011. Ms. Hertz received votes from all five Board members. Ms. Carpenter received votes from Mr. Reinhard, Mr. Atherton, Mr. Chadwick, and Ms. Roggeveen. Ms. Pena received votes from Chairman Kopko, Mr. Reinhard, and Ms. Roggeveen. Chairman Kopko said there is one unexpired vacancy on the Community Preservation Committee and that Polly Thayer Miller has withdrawn her application. The lone applicant, Channing Moore, was appointed by acclimation to fill the unexpired vacancy, with the term expiring June 30, 2012. Chairman Kopko noted there are four seats available for the Town of Nantucket Scholarship Committee and one applicant. Dave Fronzuto

and Philip Gallagher asked to be considered for the Scholarship Committee from the floor. The Board voted to appoint Mark Voigt to a one year term, said term to expire June 30, 2010; Dave Fronzuto to a two year term, said term to expire June 30, 2011; and Philip Gallagher to a three year term said term to expire June 30, 2012. The Board left it up to the Scholarship Committee as to whether or not to act on applications received in 2009.

Ad Hoc Fiscal Committee: Presentation of Final Report. Ms. Gibson reviewed the history of the Ad Hoc Fiscal Committee and introduced the committee's facilitator Dual Macintyre, who presented the committee's final report. He noted the final report as well as the committee's agendas and minutes are posted on the Town's website. Mr. Macintyre reviewed the charge of the Ad Hoc Fiscal Committee, the criteria developed for essential Town services, the identified potential efficiencies in operations, efficiencies with long-term impacts, high and low priority potential savings, potential revenue increases and hard choices the Town faces, including possibly increasing taxes and reducing personnel and services. Chairman Kopko thanked the committee for its hard work.

Review of Joint Comments with NP&EDC on Oceans Management Plan. Chairman Kopko said a joint meeting with the Nantucket Planning & Economic Development Commission was held on 5 October 2009 to review and discuss the state's Oceans Management Plan, noting the NP&EDC has drafted a comment letter on the Oceans Management Plan and he would like the Board to sign it as well. Chairman Kopko thanked Planning Director Andrew Vorce and Marine Superintendent Dave Fronzuto for staying on top of the Oceans Management Plan. Mr. Atherton moved to authorize the Selectmen chair to sign the comment letter on the Oceans Management Plan; Mr. Reinhard seconded. All in favor, so voted.

Committee Reports: Wilkes Square Redevelopment Update. Mr. Vorce said an open house was held today regarding the Wilkes Square redevelopment as an opportunity for the public to meet with the consultants and give feedback. He said more than 100 people attended and the outcome was positive and that the consultants left with clear direction as a result. Mr. Vorce says there is a Wilkes Square webpage on the Town's website and encouraged people to visit it, and noted the next update will be 18 November 2009. A brief discussion followed.

Chairman Kopko asked the Board to allow a gentleman who missed public comment to have a few minutes to speak. Kendrick Liburd proceeded to comment on his personal allegations about "racial profiling" by the Nantucket Police Department. He also noted that he attempted to propose a mandatory Spanish language program for Town employees and got the "run-around" from Town Administration. Ms. Gibson said Mr. Liburd never submitted a written proposal to the Town for review and was told to speak with the Community School about teaching Spanish language classes. Chairman Kopko asked Mr. Liburd to put his concerns and his proposal in writing to the Board; Chairman Kopko and Ms. Roggeveen said they would be willing to meet with Mr. Liburd.

The meeting was unanimously adjourned at 9:03 PM.

Approved the 13th day of January, 2010.

TOWN OF NANTUCKET AFFORDABLE HOUSING TRUST
TRUSTEE AGREEMENT

I _____ of _____, Town and County of Nantucket, hereby agree and declare that I accept my appointment by the Board of Selectmen as a Trustee of the Town of Nantucket Affordable Housing Trust (the "Trust") as established by the April 6, 2009 Annual Town Meeting's adoption of Article 72, "Acceptance of M.G.L. Ch. 44, Section 15C, Ch. 109 of the Acts of 2006, Affordable Housing Trust Fund," that I have read and understand the terms of the Trust and I agree that I will faithfully perform the duties, powers, roles and responsibilities of a Trustee in accordance with applicable law and the terms of the Trust, which terms are hereby incorporated by reference herein. Such duties, powers, roles and responsibilities include without limitation the following:

(1) to accept and receive property, whether real or personal, or money, by gift, grant, devise, or transfer from any person, firm, corporation or other public or private entity, including without limitation grants of funds or other property tendered to the Trust in connection with provisions of any zoning ordinance or bylaw or any other ordinance or bylaw;

(2) to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;

(3) to sell, lease, exchange, transfer or convey any personal, mixed or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise and to make such contracts and enter into such undertakings relative to Trust property as the Trust deems advisable notwithstanding the length of any such lease or contract;

(4) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Board of Trustees engages for the accomplishment of the purposes of the Trust;

(5) to employ advisors and agents, such as accountants, appraisers and lawyers as the Trustees deem necessary;

(6) to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Trustees deem advisable;

(7) to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;

(8) to deposit any security with any protective reorganization committee and to delegate to such committee such powers and authority with relation thereto as the Trustees may deem proper and to pay out of Trust property such portion of expenses and compensation of such committee as the Trust may deem necessary and appropriate;

(9) to borrow money on such terms and conditions and from such sources as the Trust deems advisable, to mortgage and pledge trust assets as collateral;

(10) to make distributions or divisions of principal in kind;

(11) to comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation and subject to the provisions of the Act, to continue to hold the same for such period of time as the Trust may deem appropriate;

(12) to manage or improve real property and to abandon any property which the Trustees determine not to be worth retaining; and

(13) to extend the time for payment of any obligation to the Trust.

WITNESS the execution hereof under seal this ____ day of _____, 2009.

as Trustee of the Town of Nantucket
Affordable Housing Trust

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