

## BOARD OF SELECTMEN

Minutes of the Meeting of 8 December 2010. 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, Patricia Roggeveen, and Whiting Willauer. Chairman Roggeveen called the meeting to order at 6:00 PM.

### I. ANNOUNCEMENTS

1. Town Manager C. Elizabeth Gibson noted there will be no Board meeting on 29 December 2010 as it is the fifth Wednesday of the month.

2. Mr. Willauer announced that 16 students from Worcester Polytechnic Institute (WPI) have been on Island the last seven weeks conducting research projects, some of which are for the Town, and they are scheduled to make their final presentations Tuesday, 14 December 2010 starting at 1:00 PM at 2 Fairgrounds Road in the garage area. He added that all are welcome to attend.

### II. PUBLIC COMMENT

1. Peter Boyce questioned the need for parking enforcement in the off-season. Ms. Gibson noted that if the Board wishes to change the timing of enforcement, the parking regulations need to be changed. Police Chief William Pittman said there is no change from prior years other than having staff available this year to enforce the regulations.

2. Dorothy Hertz, chair of the Council for Human Services, discussed the mission of the Council as it relates to various human services that have been provided and may be ceasing, such as the Nantucket Cottage Hospital visiting nurses program, and referenced an email from Mr. Kopko. Some discussion followed and the Board took no action.

3. Carol Dunton asked if there will be a public comment period at the Board's Monday, 13 December 2010 meeting to interview legal services respondents. Chairman Roggeveen said Monday's meeting is not a public hearing and there is no public comment period scheduled. Mr. Kopko said he assumes the public will have a comment opportunity once an action item is placed on a future Board agenda. Chairman Roggeveen noted that the Board could make a decision on legal services at its Monday meeting. A discussion among Board members followed.

### III. APPROVAL OF MINUTES, WARRANTS, PENDING CONTRACTS

1. Approval of Minutes of 17 November 2010 at 6:00 PM. The minutes of 17 November 2010 at 6:00 PM were approved by the unanimous consent of the meeting.

2. Approval of Payroll Warrant for Week Ending 5 December 2010. The payroll warrant for the week ending 5 December 2010 was approved by the unanimous consent of the meeting.

3. Approval of Treasury Warrant and Pending Contracts for 8 December 2010. Ms. Gibson reviewed the various pending contracts. Mr. Willauer reviewed the professional services contracts regarding the proposed landfill wind turbine. Ms. Gibson answered questions from the Board. Mr. Atherton moved to approve the treasury warrant and pending contracts for 8 December 2010; Mr. Willauer seconded. All in favor, so voted.

#### IV. CITIZEN/DEPARTMENTAL REQUESTS

1. Sustainable Nantucket: Request for Approval for 1 July 2011 Farmers and Artisans Market Location (Tabled from 1 December 2010). This matter was withdrawn from the agenda.

2. Our Island Home: Request for Acceptance of Gift of \$500 from Sarah and Vicky Foster for Our Island Home Gift Fund; Request for Acceptance of Gift of \$200 from St. Vincent De Paul Society for Our Island Home Gift Fund; Request for Acceptance of Gift of \$200 from St. Vincent De Paul Society for Adult Community Day Center. Mr. Willauer moved to accept the gifts as presented with letters of thanks; Mr. Chadwick seconded. All in favor, so voted.

3. Request for Execution of Purchase and Sale Agreement, Quitclaim Deed and Grant of Restrictions, and Settlement Statement for Conveyance of Town "Yard Sale" Property Described as Portion of Harriet Street, Map 88, Parcels 35 and 34B, Pursuant to Vote on Article 1 of 2003 Special Town Meeting and Vote of Board of Selectmen on 21 July 2010. Mr. Chadwick moved to approve the purchase and sale agreement, quitclaim deed and grant of restrictions, and settlement statement for Map 88, Parcels 35 and 34B as presented; Mr. Atherton seconded. All in favor, so voted.

4. Request for Execution of Purchase and Sale Agreement, Quitclaim Deed, and Settlement Statement for Conveyance of Town "Yard Sale" Property Described as Portion of Clifford Street, Map 88, Parcel 31C, Pursuant to Vote on Article 1 of 2003 Special Town Meeting and Vote of Board of Selectmen on 21 July 2010. Mr. Chadwick moved to approve the purchase and sale agreement, quitclaim deed, and settlement statement for Map 88, Parcel 31C as presented; Mr. Atherton seconded. All in favor, so voted.

5. Request for Execution of Purchase and Sale Agreement, Quitclaim Deed and Grant of Restrictions, and Settlement Statement for Conveyance of Town "Yard Sale" Property Described as Portion of Clifford Street, Map 88, Parcels 32 and 33B, Pursuant to Vote on Article 1 of 2003 Special Town Meeting and Vote of Board of Selectmen on 21 July 2010. Mr. Chadwick moved to approve the purchase and sale agreement, quitclaim deed and grant of restrictions, and settlement statement for Map 88, Parcels 32 and 33B as presented; Mr. Atherton seconded. All in favor, so voted. Planning Director Andrew Vorce noted that the three yard sales approved tonight are part of "One Big Beach" negotiations and part of some "excellent" work in the Surfside neighborhood, and he thanked the Board for its approval. Mr. Chadwick thanked Mr. Vorce and his staff for their work on these yard sale deals.

6. The Sconset Trust: Request for Approval of Conservation Restriction to be Held by Sconset Trust, Inc. for Portion of Land Located at 10 Sankaty Road and 7 Lindbergh Avenue, Siasconset. Bob Felch, executive director of the Sconset Trust, spoke in favor of the request. He reviewed the mission of the Sconset Trust as well as the history of the property in question and the benefits of placing a conservation restriction (CR) on this property. Lynn Zimmerman, a consultant to the Sconset Trust, spoke in favor of the request and addressed some possible concerns of the Board. Mr. Chadwick said he wants to support the CR but has concerns over the possible loss of the driveway and the hedge height. Mr. Atherton noted that if the property changes hands there is no guarantee that the current scenic views will be preserved. Mr. Kopko said he shares the same concerns as Mr. Chadwick but he does feel the CR is in the public interest. Mr. Willauer said he is worried about the scenic views and would like to see the hedge height restricted. Erika Mooney,

speaking as a private citizen, spoke in favor of the request, noting she is the former executive director of the Sconset Trust and this CR is important to Sconset. Mr. Atherton noted he is willing to proceed tonight without any restrictions but he would like a future discussion regarding hedge heights. Mr. Willauer agreed and said he feels the Board needs a policy on CR's including hedge height restrictions. Following further discussion, Mr. Kopko moved to approve the conservation restriction to be held by the Sconset Trust for a portion of land located at 10 Sankaty Road and 7 Lindbergh Avenue, Siasconset and that the CR is in the public benefit; Mr. Atherton seconded. All in favor, so voted. Mr. Atherton stated he feels the Board should be involved in the CR and preservation restriction (PR) processes earlier when proposed. Ms. Gibson said Town Administration can work on a draft CR/PR policy for the Board's consideration.

7. Roads and Right of Way Committee: Sconset Bluff Walk Public Access Subcommittee Report.

Allen Reinhard, chair of the Roads and Right of Way Committee, explained that the Sconset Bluff Walk is a private way granted to the Town by William Flagg in 1892 and reviewed some of the work undertaken by the Sconset Bluff Walk Subcommittee. Harvey Young, vice chair of the Roads and Right of Way Committee and co-chair of the subcommittee, introduced members of the subcommittee present and reviewed the various Town departments and committees they have met with over the past six months. Subcommittee member Bert Ryder reviewed a list of ten recommendations made by the subcommittee (attached). Subcommittee member Rob Benchley, who also represents the Sconset Civic Association, thanked Jeff Willett for characterizing the Bluff Walk as a "unique treasure" and noted that the subcommittee held two public information sessions during the summer of 2010 at Wade Cottages to discuss issues regarding the path. Mr. Benchley said the subcommittee has come up with a list of do's and don'ts and reviewed suggested signage for the Bluff Walk. Mr. Chadwick noted he attended a few of the subcommittee's meetings and he thanked Mary Wawro for the research she did concerning the stairways down to the beach. Mr. Reinhard complimented the entire subcommittee for doing "yeoman's duty" and he reviewed proposed "next steps" (attached) including requesting the Board to formally accept the subcommittee's report. Mr. Kopko moved that the Board accept the "next steps" as presented; Mr. Atherton seconded. All in favor, so voted.

8. Article 68 Work Group: Progress Report.

Dr. Peter Boyce, vice chair of the Article 68 Work Group, reviewed what the work group has accomplished, including drafting language for Board of Health fertilizer regulations, finalizing language for a Home Rule Petition regarding fertilizer use, and completing a first draft of a Best Management Practices document for Nantucket. Dr. Boyce acknowledged the commitment of the work group members. Lee Saperstein, secretary of the Article 68 Work Group, reviewed the Best Management Practices, noting the work group has set a target date of 15 February 2011 to make its final presentation to the Board. Chairman Roggeveen noted how impressed she is with the work of both the Article 68 Work Group and the Sconset Bluff Walk Subcommittee. Mr. Chadwick thanked the work group for its "incredible document". Mr. Atherton stated he hopes the Home Rule Petition doesn't slow down local regulation efforts.

V. TOWN MANAGER'S REPORT

1. FY 2012 General Fund Budget Recommendations. Ms. Gibson reviewed the Town Administration FY 2012 General Fund budget recommendations and five-year strategy, noting the big picture of consolidations has been under review since FY 2009.

At 7:53 PM Mr. Willauer left the meeting.

Ms. Gibson reviewed the FY 2012 budget process changes, including starting the budget cycle earlier and changing the methodology for planning assumptions, noting that the Board guideline for FY 2012 was to "live within" the Town's projected revenue and Town Administration was directed to bring forth a balanced budget which has been done.

At 7:56 PM Mr. Willauer returned to the meeting.

Ms. Gibson reviewed General Fund revenue and expense assumptions. She said that the departmental consolidations which are being proposed are subject to union negotiations, that the Town can't justify some of the current staffing levels with the slowing economy, adding that the consolidations are also meant to improve efficiency and operations. She then reviewed each of the departmental consolidations, and acknowledged that changes will be difficult including the loss of staff. Ms. Gibson noted that there will be some unfunded core service needs of approximately \$500,000 that cannot be funded at this time, including police, fire and central dispatch positions. Police Chief William Pittman answered questions from the Board regarding current staffing levels at the Police Department and how the number of police officers is determined, noting it comes down to what kind of service and response time does the Town expect and want from the Police Department. Ms. Gibson reviewed personnel history and remaining budget unknowns, including state aid and Chapter 90 aid. She noted that Free Cash has been certified by the Department of Revenue and she thanked the Finance Director Connie Voges and the Finance Department staff for their efforts to get this done. Ms. Gibson explained that there are other potential impacts on the General Fund budget, including unfunded citizen and other warrant articles, but noted that even if some funding appropriation is possible Town Meeting votes do not dictate personnel decisions. Ms. Gibson acknowledged that FY 2012 is a very challenging budget and very hard on those being affected. She added that efficiencies are needed regardless of the economy and that some services may be affected as a result. Mr. Atherton expressed his appreciation to Ms. Gibson and her staff for their work and said he understands how difficult the process is.

Ms. Gibson acknowledged Our Island Home for its deficiency-free annual survey from the Department of Public Health. She also acknowledged Anne Marie Crane from the Department of Public Works for her efforts in the successful pursuit of obtaining payment for unpaid landfill bills. She added that Marine Superintendent Dave Fronzuto and Beach Manager Jeff Carlson have been working on the Board's water quality management goal and have been developing an online interactive presentation.

## VI. SELECTMEN'S REPORTS/COMMENT

1. Discussion on Preliminary 2011 Annual Town Meeting Warrant Articles: Proposed Finance Committee, Council for Human Services Bylaw Amendments. Ms. Gibson explained that the Finance Committee warrant article came out of a Board discussion earlier this year regarding the current Finance Committee bylaw and conflict of interest issues. Mr. Kopko said he is looking to clarify the sentence in the bylaw in Section 11-1 that states "directly interested in the expenditures of the Town's appropriations" and asked if that means directly to oneself or through an organization. A discussion followed among Board members on the meaning of the current bylaw and potential clarifying language. Mr. Kopko suggested language that "directly" means no employee or officer of a public or private organization. He recommended that the Town Manager work on refining this language with Town Counsel. Ms. Gibson explained that Council for Human

Services bylaw amendments came up last year at the 2010 Annual Town Meeting but the article was withdrawn by the Board, and is now being brought back in light of the departmental consolidations. Following a brief discussion among Board members on the language, Mr. Kopko offered to draft language and to bring it back to the Board for review.

Mr. Chadwick said he would like to ensure that the Anne's Lane article reviewed earlier in the evening by the Roads and Right of Way Committee be included on the warrant.

The Board discussed the 13 December 2010 legal services interviews and the issue of public comment.

In light of tonight's budget presentation, Mr. Chadwick urged Board members who plan to attend the upcoming Massachusetts Municipal Association convention to consider not using Town funds to attend. Mr. Kopko spoke in opposition and said the Town should fund this for interested Board members, as it is important. Mr. Atherton concurred. Chairman Roggeveen agreed with Mr. Chadwick and said she feels the Board should join the Town as it "tightens its belt" and suggested that alternate funding sources be looked into. Some discussion followed.

2. Committee Reports. Mr. Atherton reported to the Board on the Capital Program Committee and the Nantucket Planning and Economic Development Commission. Mr. Willauer updated the Board on the Harbor and Shellfish Advisory Board and the Energy Study Committee.

Mr. Atherton noted comments were made a few weeks ago by the Council for Human Services regarding some possible conflicts of interest when the Board voted on health and human services contracts at its 23 June 2010 meeting and he recommended that the Board revote on the contracts to clarify. Mr. Atherton moved that the Board approve the health and human services pending contracts from 23 June 2010; Mr. Chadwick seconded. So voted, 4-0. Mr. Kopko abstained.

## VII. ADJOURNMENT

The meeting was unanimously adjourned at 9:20 PM.

Approved the 22<sup>nd</sup> day of December, 2010.

## PART II. EXECUTIVE SUMMARY

---

### A. Summary of Recommendations

NOTE: The recommendations are listed in the same sequence in which they appear in the body of the Report.

1. The Town and County of Nantucket should proceed with the takings process for all of the lateral ways contained in Article #74. **None should be eliminated.** The Subcommittee believes that it is in the best interests of the public to retain all access options for two reasons: one, it is a fair policy to treat each the same; and, two, given the history of erosion in this area of the island and the consequences for the Foot-path. [Part IV, A, p. 18.]
2. The **Anne's Lane** way between #45 and #47 Baxter Road, which was removed from Article #74 during the course of ATM2010, with the commitment from the property owner that an easement would be negotiated, **should be brought back to ATM2011.** [Part IV, B, p. 18.]
3. **The first phase of negotiations for easements for pedestrian access to the Foot-path should be initiated as soon as possible at the following five (5) locations** to ensure suitable means of public access and egress at the present north and south terminuses, as well as at additional points along the path: The unnamed way between #65 and #67 Baxter Road; the unnamed way between #61 and #63 Baxter Road; **Fraser Lane** (Emily Street) between #27 and #29 Baxter Road; **Rosalyn Lane** between #13 and #15 Baxter Road; and **Nosegay.** [Part IV, C, p.19.]
4. The **Town should adopt the proposed Management Plan** that will result in a better understanding of the acceptable uses of the Foot-path, a lower public profile for the path, and a more positive, symbiotic relationship between abutters and visitors to the path. These outcomes will be achieved through the communications of specific Do's and Don'ts, the utilization of certain control tools, including signage, as well as more regular and dependable enforcement and maintenance. [Part V, D, p. 22.]
5. The **pedestrian access ways from Baxter Road to the Foot-path should be marked as open to the public in an unobtrusive manner** and in ways that are consistent with the character of the area. [Part V, F, p. 23.]

6. The Town should **establish a minimum maintenance standard for the Foot-path and pedestrian access ways of four (4) feet in width.** [Part V, G-1, p. 24.]
  
7. While the Subcommittee is not recommending that the entire Foot-path be surveyed at this time, it is recognized that, **should funds become available, such a survey may be helpful.** A survey of the Foot-path could be done in sections, over time, and the Subcommittee recommends that the Town consider such a strategy, perhaps seeking CPC grants for this specific purpose. It should be noted that **all of the ways and small portions of the Foot-path will be surveyed through the takings process.** [Part V, G-2; p. 24.]
  
8. As part of the information-gathering process, the Subcommittee has compiled data relating to **19 staircases leading from the Foot-path at the top of the bluff to the beach below.** This information is presented in chart form as an Appendix to the Report, with the consideration that it **might be helpful to Town officials who will be responsible for negotiating the easements** for pedestrian access to the path. [Part V, G-3, p. 25.]
  
9. In response to and recognition of the concerns of abutters, and others, the Town **should take responsibility for implementation and enforcement of the recommended Management Plan** for the Foot-path. Ongoing implementation oversight could be provided by the Roads and Rights of Way Committee with the assistance of the 'Sconset Civic Association. [Part V, H, p. 25.]
  
10. The Subcommittee recommends that **CPC funds received by the Town for public access should be allocated for the initial implementation of the Management Plan, maintenance of the Foot-path and lateral access points, as well as for any one-time capital expenses** such as surveying, signage and other control tools, due to the current constraints of the General Fund. [Part V, I, p. 25.]



## NEXT STEPS

By way of follow up, the R&ROW Committee respectfully requests that the BOS take **five (5) specific steps** as soon as possible:

one, **formally accept the Report** of the Subcommittee as adopted by the R&ROW Committee;

two, direct the Town Administration to **prepare an article** for the Warrant for ATM2011 for the taking of Anne's (Ann's) Lane way;

three, direct the Town Administration to **being negotiations** with the abutters of the five (5) ways recommended by the Subcommittee to be included in the first phase of negotiations to secure pedestrian access easements to the Foot-path in perpetuity;

four, **commit to the implementation of the Management Plan** with the recognition that the R&ROW Committee and the Sconset Civic Association are prepared to provide support for and assistance with this task, including enforcement of TON ordinances as they relate to the Foot-path; and

five, direct the R&ROW Committee to **report back** to the BOS on progress made to-date in six months (June, 2011).

**BOARD OF SELECTMEN**  
**8 DECEMBER 2010 – 6:00 PM**  
**COURT ROOM, TOWN & COUNTY BUILDING**  
**16 BROAD STREET**  
**NANTUCKET, MASSACHUSETTS**

List of documents used at the meeting:

- II. 2. "Statement by Human Services Council Chair in Response to E-mail from Selectman Kopko December 8, 2010"
- III. 1. Draft minutes of 17 November 2010 at 6:00 PM
- III. 3. Pending contracts spreadsheet for 8 December 2010
- IV. 1. Agenda item withdrawn
- IV. 2. Letter from Our Island Home, re: gift requests
- IV. 3. Purchase and sale agreement, quitclaim deed and grant of restrictions, and settlement statement, re: Map 88, Parcels 35 and 34B
- IV. 4. Purchase and sale agreement, quitclaim deed, and settlement statement, re: Map 88, Parcel 31C
- IV. 5. Purchase and sale agreement, quitclaim deed and grant of restrictions, and settlement statement, re: Map 88, Parcels 32 and 33B
- IV. 6. Letter from Town Counsel, re: proposed conservation restriction; cover letter from the Sconset Trust, re: proposed conservation restriction; conservation restriction for 10 Sankaty Road and 7 Lindbergh Avenue and exhibits
- IV. 7. Email from D. Anne Atherton, re: report for Sconset Bluff Walk Subcommittee; Report of the Sconset Foot-Path Access Subcommittee and accompanying map and "next steps"
- IV. 8. PowerPoint presentation, re: Article 68 Work Group; sample of educational outreach (Nantucket Cares); Board of Health proposed regulations; proposed Home Rule Petition
- V. 1. Budget "Headlines" presentation (please go to [http://www.nantucket-ma.gov/Pages/NantucketMA\\_Finance/headlinespresentation20101208.pdf](http://www.nantucket-ma.gov/Pages/NantucketMA_Finance/headlinespresentation20101208.pdf) to view); FY 2012 General Fund Budget Recommendations PowerPoint
- VI. 1. Preliminary Outline for 2011 Annual Town Meeting Warrant; Finance Committee bylaw; warrant article from 2010 Annual Town Meeting, re: Council for Human Services and current bylaw