

SELECT BOARD

Minutes of Meeting of February 2, 2022. The meeting took place via remote participation using Zoom Webinar. Members of the Board present were Jason Bridges, Matt Fee, Dawn Hill Holdgate and Melissa Murphy. Kristie Ferrantella was absent.

I. CALL TO ORDER

Chair Bridges read a prepared statement as to how the meeting will be conducted via remote participation and the ground rules for any discussion and called roll for those present, Chair Bridges called the Select Board meeting to order at 5:33 PM.

II. SELECT BOARD ACCEPTANCE OF AGENDA

The agenda was accepted without change.

III. ANNOUNCEMENTS

1. The Select Board Meeting is Being Audio/Video Recorded.

Town Manager C. Elizabeth Gibson introduced Chief of Police William Pittman to provide a report following a storm (Winter Storm Kenan) on January 29th. She also thanked Public Works and Sewer staff, the Emergency Management team, National Grid and the School for their work before, during and after the storm. Chief Pittman spoke on the preparations, which began early in the week with increasingly frequent National Weather Service reports and storm warnings and associated preparations by town departments. He spoke on the progression of the event, with extremely high winds, tides and seas, and the impacts including downed trees, branches, wires and power outages. He spoke on some damage to Town property, specifically, the Town Pier. He noted that damage is repairable fairly easily.

2. Select Board Announcements/Comments. No comments.

IV. FOLLOW-UP ON COMMENTS FROM PRIOR SELECT BOARD MEETINGS

No prior follow-ups.

V. PUBLIC COMMENT

Howard Dickler spoke on Article 42 of the 2022 annual town meeting warrant, indicating his opposition.

VI. COVID-19 UPDATE

1. Public Health Department Update. Public Health Director Roberto Santamaria said that overall the community is "in pretty good shape". He provided an update as to positive COVID cases, waste water testing results, vaccination numbers. He said vaccine should be available very soon for very young children. He reviewed clinic hours and sign-ups. Ms. Murphy asked for an update as to Our Island Home; and access to the vaccine for children ages 5-12. Mr. Santamaria said that about half of the cases at Our Island Home have recovered, there have been two more cases, but conditions are improving. With respect to pediatric vaccine availability, he spoke on upcoming clinics, one of which had to be rescheduled because of last weekend's storm; and, also spoke on clinics that the School is holding. He spoke on the complexities of pediatric vaccinations. Chair Bridges asked about the distribution of home test kits. Mr. Santamaria explained and said that the Health Department has received some test kits which are being/have been distributed. He said additional kits are expected shortly.

VII. NEW BUSINESS

There was no new business.

VIII. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

Ms. Murphy moved approval of items VIII 1 – 2; seconded by Ms. Holdgate. So voted by roll call vote: Chair Bridges – Yes; Ms. Holdgate – Yes; Mr. Fee – Yes; Ms. Murphy – Yes.

1. Approval of Minutes of January 26, 2022 at 5:30 PM.

2. Approval of Treasury Warrants for February 2, 2022.

3. Approval of Pending Contracts for February 2, 2022 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference. Ms. Murphy moved approval of pending contracts; seconded by Ms. Holdgate. So voted by roll call vote: Chair Bridges – Yes; Ms. Holdgate – Yes; Mr. Fee – Yes; Ms. Murphy – Yes.

IX. CONSENT ITEMS

1. Gift Acceptance: Our Island Home; Fire Department. Chair Bridges read the names of the donors and the purposes of the donations as contained within the packet materials. Ms. Murphy moved to accept all gifts for their designated purposes, with thanks to the donors; seconded by Ms. Holdgate. So voted by roll call vote: Chair Bridges – Yes; Ms. Holdgate – Yes; Mr. Fee – Yes; Ms. Murphy – Yes.

X. PUBLIC HEARINGS

1. Public Hearing to Consider Application for Change of Category from Annual Wine and Malt Beverages with Cordials Restaurant License to Annual All-Alcoholic Beverages Restaurant License for Keeping the Beet, LLC dba The Beet, Felino Samson, Manager, for Premises Located at 9 South Water Street; Request for Determination that the Premises Licensed to Sell Alcoholic Beverages is Not Detrimental to the Spiritual Activities of a Church Pursuant to Section 16C of MGL Chapter 138. Chair Bridges opened the hearing. Licensing Administrator Amy Baxter reviewed the application and explained the type of transaction being requested. It was noted that Amy Young and her partner Felino Samson of The Beet were also present. Ms. Young spoke on the application. There being no public comments, Chair Bridges closed the hearing. Ms. Murphy moved to approve the change of category application, as presented; seconded by Mr. Fee. So voted by roll call vote: Chair Bridges – Yes; Ms. Holdgate – Yes; Mr. Fee – Yes; Ms. Murphy – Yes.

Ms. Murphy moved to determine that the licensed premises is not detrimental to the spiritual activities of a church within 500 feet; seconded by Ms. Holdgate. So voted by roll call vote: Chair Bridges – Yes; Ms. Holdgate – Yes; Mr. Fee – Yes; Ms. Murphy – Yes.

XI. TOWN MANAGER'S REPORT

1. Fire Chief: Review of Proposed Ambulance Fee Schedule Increases. Ms. Gibson noted that the Fire Chief will brief the Board on these proposed fee increases and request the Board to schedule a public hearing to formally consider them. Fire Chief Stephen Murphy reviewed the current fee schedule, noting that as the Advanced Life Support (ALS) ambulance service expands, the fees should increase accordingly due to the costs of a higher level of service. Chief Murphy noted that these fee increases were actually scheduled to come before the Board over a year ago, but it was felt that during the COVID pandemic it was not a good time for that. The general consensus of the Board was to proceed to schedule a public hearing.

2. Licensing Administrator: Review of Nantucket Cottage Hospital's Proposed 2022 Boston Pops for Nantucket Event Scheduled for August 13, 2022 at Jetties Beach. Ms. Baxter introduced the item. She reviewed meetings that have been held with Hospital and Town officials about the event and the various measures that are proposed to address Town concerns with staffing. Gary Shaw of the Hospital reviewed the planning and the various measures intended. He acknowledged that a lot has been learned from these discussions as to the

Town's abilities to manage an event like this. He spoke about the purpose of the event and thanked the Town officials who have been involved. Chris Glowacki of the Hospital reviewed the specifics of how the event is proposed to be managed, using an outside management company with experience handling these types of events, along with additional state police resources. Ms. Murphy thanked everyone involved in focusing on the safety concerns associated with the event and the measures proposed to address those. Mr. Fee agreed. Ms. Baxter said that a public hearing will be scheduled within the next month or so, for a public assembly permit for the event, pursuant to the Town's bylaws. Chair Bridges thanked everyone involved for their collaboration.

3. Review of Proposed Madaket and Warren's Landing Sewer Extension Conceptual Design Updated Cost Estimate. Ms. Gibson introduced the item and noted that no specific action is requested at the Board meeting tonight, although general direction from the Board would be helpful. She reviewed the background of this project starting with 2016, when it was brought forward to a special town meeting where it was approved; however, it failed at the subsequent election. She said that following that the Board requested an updated Madaket water quality study be performed to determine if measures other than sewerage the area could be successful to improve and maintain a water quality level that meets or exceeds the Total Managed Daily Load (TMDL) of nutrients such as nitrogen, as established by the state Department of Environmental Protection (DEP), of the estuaries in Madaket, including Hither Creek, Long Pond and Madaket Harbor. The School of Marine Science Technology (SMASST) at the University of Massachusetts at Dartmouth, was engaged to undertake additional modeling of various scenarios. That study took some time to procure and then be prepared. It came out at the end of 2019 and was promptly derailed by the COVID pandemic, picked up again in early 2021 with a report completed last summer, which necessitated review by staff, and input from some Madaket representatives. She noted that additionally, since the report was issued, the Town's Coastal Resilience Plan (CRP) has been issued and endorsed by the Board, adding that there are roadway areas within the route of the proposed sewer that are identified as needing to be raised due to progressive flooding projections. She said that cost projections for those measures are not included in this report. She turned the presentation over to Steve Pedersen of Weston & Sampson to review the updated cost and scope report. Mr. Pedersen reviewed the presentation as contained within the Board's packet and noted modifications from the prior proposal. He noted that the current layout remains conceptual but enough to develop a fairly reliable cost estimate. He reviewed other features of the potential route, including pump stations and other project details. He reviewed coastal resiliency considerations and noted that the sewer system and its associated features will be designed to be resilient and that while there are other areas along the route that are identified as needing to be made resilient in the CRP, they are not necessarily related projects. Coastal Resilience Coordinator Vincent Murphy spoke on the recommendations of the CRP for the roadway and culverts along Long Pond and the Madaket Ditch. He agreed that the projects could potentially be separate. Mr. Pedersen reviewed the possibility of an additional sewer force main being part of the project, for redundancy purposes. He reviewed project cost drivers, including length, size and depth of pipe, surface restoration, and easements among others. He proceeded to review a detailed breakdown of the cost estimate, for a total of approximately \$52,000,000. He said it takes into consideration the "Island factor" – which is typically a certain level of costs higher on the island due to getting materials, equipment, supplies and labor over here. He reviewed potential next steps, which include securing design funds. Mr. Fee asked about build-out. Mr. Pedersen responded. Mr. Fee asked about running a sewer infrastructure through low-lying areas. Mr. Pedersen said that sort of issue would be addressed in a design phase. Mr. Fee spoke about property owners who have installed Innovative Alternative (IA) septic systems at significant expense. He also asked about sewerage the Somerset Needs Area at the same time due to needs there as well. Mr. Pedersen explained that sewerage the Somerset area is not needed to sewer Madaket and it is really a matter of prioritizing the projects. Dan Sheahan of Weston & Sampson commented on other Needs Areas adjacent to Somerset. Bill Grieder said that if the sewer project proceeds, it should be constructed along with other coastal resiliency measures. He said the residents need to be informed of the total impact of the project on their properties and their taxes. He said workshops should be held before the Board proceeds. Ms. Murphy asked about next steps. Ms. Gibson said the Board should perhaps be thinking about how it would want to prioritize coastal resilience

measures, and water quality. Ms. Murphy said she supports the idea of workshops with the public and asked how sewerage in Madaket became a priority. Ms. Gibson noted that water quality issues in Madaket initially drove this project. Ms. Holdgate concurred with the idea of community workshops. Mr. Fee spoke on whether or not the water quality will improve if there are more cars in Madaket because there could be more houses with more people as a result of sewerage. He suggested other areas for sewer should be looked at before Madaket, pending additional work around coastal resiliency measures. Some discussion followed as to buildout analysis numbers. Rick Atherton spoke on the need to understand what assumptions were used to determine the buildout and that there may be more short-term rentals as a result of extending sewer to Madaket. Planning Director Andrew Vorce spoke on the buildout analysis and that the tying of short-term rentals to a sewer extension is not necessarily appropriate. He explained the detail of the buildout analysis that was undertaken. Mr. Fee said he'd like to see an analysis of the impact of additional pollutants to water bodies that won't be captured by sewer, if additional houses would be allowed. He said that the Madaket Association is working on its own buildout analysis. Ms. Murphy spoke on competing priorities with water quality, coastal resiliency and the complexity of determining how best to meet multiple priorities and objectives, as well as community feedback. Some discussion followed. It was generally agreed that Ms. Gibson would work with her team to revisit other sewer projects, as well as coastal resiliency measures and other considerations and workshops for community feedback.

XII. SELECT BOARD'S REPORTS/COMMENT

1. Committee Reports. No committee reports.

XIII. PUBLIC HEARINGS II

1. Public Hearing to Consider Appeal of Jeff Gardner, et al of Historic District Commission Approval of Certificate of Appropriateness No. HDC2021-05-3625 for a Structure Located at 8 Bank St, Map 73.1.3, Parcel 69. Chair Bridges reviewed the HDC appeal process and opened the hearing. Attorney Jonathan Fitch spoke on behalf of the appellant. He reviewed the vote of the HDC on this application, as well as the timing of the filing of the appeal. Appellant Margaret Van Deusen spoke in favor of the appeal and reviewed some historic photos of the area and pointed out various structures still in existence. She spoke on the height of the house at 8 Bank Street and that it would be "character changing" if the proposed house proceeds because historic views and other features of the area would be eliminated. She said the HDC acted without taking these things into consideration. Ray Pohl, HDC Chair, noted that he didn't sit on this application, but explained how the vote was executed and how each member voted, indicating that there was some confusion due to the number of Commissioners voting, not voting and abstaining and whether or not there was a quorum of members voting. He said the minutes of the vote are actually incorrect, that there was a quorum voting and that the original vote to approve the application was valid. Attorney George Pucci of Town Counsel's office confirmed Mr. Pohl's accounting of the vote. He said that the timeliness argument presented by Mr. Fitch is reasonable, concluding that the appeal was filed in a timely manner. Discussion continued on what the minutes indicate, what was actually voted and the timeliness matter. Attorney Fitch commented on "irregularities" of this situation. Mrs. Van Deusen spoke further on the actions of the HDC members with respect to the final vote. Mr. Fee asked the HDC members their intent with respect to their vote. Abby Camp, HDC Commissioner said that she believed she was voting "no". She acknowledged it was a very difficult application and continued explaining the mechanics of the voting. Linda Williams commented that the property owner has not been heard yet and continued speaking on the specifics of the voting and the timeliness of the appeal, among other issues. Attorney Michael Wilson spoke on behalf of the property owner and referenced an opinion from Town Counsel John Giorgio that confirms the validity of the vote. He commented on differing opinions from Town Counsel attorneys. He stated that no HDC member voted against the application. He stated that he disagrees that the appeal was filed in a timely manner. He continued speaking as to the vote and maintained that the HDC did not act arbitrarily or capriciously. Attorney Pucci noted there are not differing opinions from Town Counsel and explained the opinions of himself and Attorney Giorgio. Joe Arvay commented on letters of opposition sent on this structure by numerous Sconset

residents and the Sconset Civic Association and said he felt that the building is inappropriate. Chair Bridges noted that the Board's role is to determine whether or not the HDC acted arbitrarily, not to substitute its judgement for that of the HDC. Ms. Murphy asked about the Board's options. Attorney Pucci explained. Mr. Fee asked if the HDC's intent was not to approve, would that be a reason to uphold the appeal. Attorney Pucci said that would not be appropriate; however, if there is such confusion about the vote, it would be sufficient grounds to remand the matter to the HDC. Mr. Fee spoke in favor of a remand. Attorney Wilson spoke again on the timeliness issue. Henrietta Currier spoke in favor of the appeal. Ms. Williams stated that a bad precedent will be set if the Board does not acknowledge that the HDC approved the application. Lisa Soeder, John Shea, and Janet Ballou spoke in favor of the HDC appeal. Ms. Holdgate commented that the HDC members, who are elected and who have served for quite some time, should understand how they are voting and that matter should not be coming before the Board. Mr. Fee asked if the HDC's vote was ever corrected at a public meeting. He asked further if Attorney Giorgio's opinion about the vote was made public. Preservation Planner Holly Backus said it was not. Pamela Suan spoke in favor of the appeal and agreed there was "immense confusion" about the vote. Attorney Fitch spoke again about the irregularities of this situation and urged the Board to remand the matter to the HDC. Attorney Wilson spoke on the nature of the decision the Board should make with respect to this matter. Ms. Murphy moved to close the public hearing; seconded by Ms. Holdgate. So voted by roll call vote: Chair Bridges – Yes; Ms. Holdgate – Yes; Mr. Fee – Yes; Ms. Murphy – Yes. Mr. Fee moved to remand the matter to the HDC; seconded by Ms. Murphy. Discussion followed as to potential Board's actions. Attorney Pucci suggested a revised motion to affirm the appeal, vacate the HDC approval and remand to the HDC for a new public hearing. Ms. Murphy accepted the revised motion. She added that she agrees the administrative record is confusing but does not think the HDC decision was arbitrary. Ms. Holdgate said she agrees and spoke on the HDC's vote as not being as flawed as has been represented. Mr. Fee took issue with Attorney Giorgio's opinion not being put on the record and the HDC vote to approve not being ratified and the record corrected on the issue. Discussion followed among the Board members. Chair Bridges asked what a 2-2 vote would mean. Attorney Pucci said that would be a denial. Mr. Fee said the HDC should have clarified its vote earlier and this would give them the chance to do that. Discussion continued among the Board members. By roll call vote: Mr. Fee - Yes; Ms. Holdgate – No; Ms. Murphy – No; Chair Bridges – No. The motion did not carry, resulting in the denial of the appeal.

XIV. ADJOURNMENT

At 8:48 PM, Ms. Holdgate moved adjournment; seconded by Ms. Murphy. So voted by roll call vote: Chair Bridges – Yes; Ms. Holdgate – Yes; Mr. Fee – Yes; Ms. Murphy – Yes.

Approved the 9th day of February 2022.

**SELECT BOARD
FEBRUARY 2, 2022 – 5:30 PM
REMOTE PARTICIPATION VIA ZOOM
NANTUCKET, MASSACHUSETTS**

List of documents used at the meeting:

- VIII. 1. Draft minutes of 1/26/2022
- VIII. 3. Pending Contracts spreadsheet
- IX. 1. Gift summary & recommended motion; Our Island Home gift letter; Fire Dept gift letter
- X. 1. AIS re: The Beet - Change of Category application; Liquor License Public Hearing Process; ABCC application for the Beet Change of Category; Current liquor license; Determination letter
- XI. 1. Memo from Fire Chief re: proposed ambulance fee schedule increases
- XI. 2. AIS re: update on proposed 2022 Boston Pops on Nantucket; Pops aerial site plan; Commission on Disability accessibility requirements
- XI. 3. Weston & Sampson Report - Madaket & Warren's Landing Sewer Extension Conceptual Design & Cost Estimate; Weston & Sampson Executive Summary; SMAST Technical Memo; Natural Resources Dept. Executive Summary; Weston & Sampson PowerPoint presentation
- XIII. 1. HDC Appeals Process; HDC appeal of 8 Bank St; Appellant submission; HDC File; Memo from HDC staff; Town Counsel opinion; KP Law eUpdate - Calculation of Majority Vote; HDC approval of 8 Bank St - HDC2021-05-3625; HDC file documents