

Town and County of Nantucket
ROADS AND RIGHT OF WAY COMMITTEE

Posted Meeting of 16 February 2021
Held by Zoom Videoconferencing

DRAFT MINUTES FOR REVIEW AND APPROVAL

1. Call to Order, Approval of the Agenda, Approval of Minutes, and Public Comments.

A. Chair Allen Reinhard called the meeting to order at 4:02 pm. In attendance were Rick Atherton, Ed Gillum, Bill Grieder, Nat Lowell, Allen Reinhard, Lee Saperstein, and Phil Smith; there was a quorum at all times. All responded to an attendance roll call. The meeting was recorded and can be viewed on You Tube.

Absent: Nelson (Snookie) Eldridge, Leslie Forbes.

Guest: Mary Longacre, Chair, Coastal Resilience Advisory Committee.

B. Approval of the Agenda. The agenda was approved unanimously by acclamation.

C. Public Comments.

Mary Longacre, Chair of the Coastal Resilience Advisory Committee, CRAC, suggested that, because of the commitment of the Committee on Roads and Right of Way, as expressed in its mission statement, to the public's access to the beach, it should maintain a liaison with CRAC. She invited the committee to participate in their meetings and comment on their findings. It was suggested by several committee members and Mary Longacre that the committee should have a future agenda item on coastal erosion and beach access with Vince Murphy, Coastal Resilience Coordinator, and Mary Longacre as guests. Additionally, Allen Reinhard said that we should consider also less-common places that are not public beaches but that may be subject to damaging erosion. [Action: Allen Reinhard to add coastal erosion to a future agenda.]

D. Minutes. Approval of the minutes from January 19, 2021, was moved by Bill Grieder and seconded by Ed Gillum. Phil Smith pointed out a small typographical error on page 2, paragraph four, line 1 and the motion was amended to include its correction. Unanimous approval was given by roll-call vote.

2. Greenway Project Update: West End Trail Map Published, Cross Island Trail Map at Printer.

Allen Reinhard gave a brief update on the establishment of Greenway trails across the Island. He reminded the committee that the Greenway trail system had long been a desired project

outcome of the committee. The Nantucket Island Land Bank, <https://www.nantucketlandbank.org/about/> has published a west-end map, identified as “Settlers’ Landing,” and copies are available from their offices at 22 Broad Street. The Cross-Island trail map, from Hoicks Hollow on the eastern shore of the Island, to Settlers’ Landing on the western shore, is at the printer. He also reported that the Select Board had approved the creation of a parking area at Hoicks Hollow for users of the trail.

3. Chapter 91: Public Access Issues, Public Awareness and Education, Specific Properties to Research. Goal Is to Locate Existing Public Access Points and Determine Other Possibilities.

Chapter 91 of the Massachusetts General Laws, MGL, The Massachusetts Public Waterfront Act, is an omnibus law that covers all waterfronts, both fresh and salt water, in Massachusetts. The first reference to permission for “fishing, fowling, and navigation” came in the Colonial Ordinances of 1641-47 of the Massachusetts Bay Colony. Formal adoption of the Act began in 1866 and eventually led to the current system of licenses and permits. Of particular interest to the committee is the system of permits established in Sections 17 and 18 of the Act. that “seeks to preserve and protect the rights of the public, and to guarantee that private uses of tidelands and waterways serve a proper public purpose.” (“Guide to Chapter 91,” MA Dept. of Env. Prot.).

In introducing this topic, Allen Reinhard said that the Committee had a two-fold goal for Chapter 91 Licenses: the first was a broad interest to assure public access to the shore and the second was to identify those structures that impair the Harbor Walk and to determine if they have or need a license. As part of these goals, the committee supports an effort to have all licenses recorded in a digital file that is publicly available. With its interest in the development and protection of a Harbor Walk that goes from Brant Point to Consue Springs, the Committee is also interested in those properties that inhibit such a walk: 46 Easton Street, 13 Commercial Wharf (Street), and 80 A-G Washington Street Extension. According to research done by Lee Saperstein after the meeting, 13 Commercial Wharf and 80 Washington Street Extension have ConComm orders of conditions attached to their deeds but he could find no reference to a Chapter 91 license for either property. The February 7, 2021, sale of 46 Easton Street is in the On-Line Registry. Ed Gillum reported that it was his understanding that there is a need for a Chapter 91 License before any new building could proceed. He understood that permission had been granted to move the existing structure to create a second buildable lot but that this action was on hold. None of this has made its way into the Registry.

During this conversation, Allen Reinhard reminded the committee that it had had questions about the way from the end of Fulling Mill Road to the harbor. Lee Saperstein indicated that, despite memories of people using that way as access to the harbor, it is a private abutters’ way and public use may be blocked.

At this point, Lee Saperstein asked Rick Atherton to talk about the planning underway in the Nantucket Civic League, NCL, to put on a public forum on Chapter 91 Licenses. Rick Atherton

explained that the NCL runs public forums on topics of interest to the community. The last one on coastal resilience attracted over 80 attendees. He noted also that the Nantucket Town Association's invitation to the Chair of the Nantucket Historical Commission to talk about the proposed Harbor Place also attracted over 100 attendees. In planning for the new NCL forum to be sometime in early April, he has contacted Steve McKenna with the State's Coastal Zone Management Office who had indicated his willingness to participate in the forum. His availability will help to set the exact date and time of the forum. NCL is also reaching out to members of Nantucket's Natural Resources Division to participate. It was suggested by Rick Atherton and Allen Reinhard that the committee should offer to co-sponsor the forum.

Ed Gillum asked, in light of the information about property on Commercial Wharf, if the Land Bank had sought a Chapter 91 permit for its recent purchase of 15 Commercial Wharf (Street) that it intends to augment its park at Petrel's Landing. Allen Reinhard said that he did not know but would check. Subsequent to the meeting, Lee Saperstein found that the former owner had acquired a DEP Waterways License, Number 12488, in 2009, valid for 30 years, which guaranteed public access to the beach below his property (License and Plan, 10/09/2009, Registry of Deeds). The license is renewable. Such licenses convey with the property so, yes, the Land Bank does have a license for this property.

Phil Smith wondered if there were sanctions if a license requirement had been ignored. No answer was available and the question may be a good one for the forthcoming forum. Ed Gillum asked, also, about duration of licenses. He believed that current ones were valid for 30 years but older ones could be for up to 99 years. The license discussed above confirms the 30-year estimate. The Great Harbor Yacht Club public walkway was offered as an example of open compliance with Chapter 91.

Inasmuch as some of the notable license applications involved litigation, it was suggested that attorneys Cohen and Reade might be good sources of information on the application process for licenses.

4. Potential Takings List: Consideration of Winn Street and Friendship Lane Dirt Portion.

Allen Reinhard reminded the Committee that its current version of the Potential Takings List includes Winn Street, Friendship Lane/Somerset Road, Franklin Street, and Warrens Landing Road. He suggested that the Committee review the first two with an aim of renewing its request to the Select Board to take these two ways. Winn Street, he explained, is a logical connector between the bike paths along Milk Street and the Madaket Road; half of it is publicly owned and undeveloped and half is private but paved. He recalled that the former DPW Director had told the committee that there was Town interest in using the public portion of Winn Street as an utility corridor. The developer of the subdivision had offered the paved portion of Winn Street to the Town provided that the Town also took streets that he controlled in Woodbury Commons. The Town declined the offer.

Allen Reinhard then asked if the committee was interested in sending a renewed advisory memorandum to the Select Board. Lee Saperstein replied, for himself, “definitely yes.” Nat Lowell pointed out that Somerset Road, just past the entrance to the Prospect Hill Cemetery Annex, turned sharply right and the prolongation of the road was named Friendship Lane. It was at this point that the roads had drainage problems and were in poor shape. Moreover, said Ed Gillum, there is a major landowner opposite the cemetery and his interests should be consulted before the committee does anything.

Lee Saperstein expanded on his comment and suggested that we consider a formal motion to write to the Select Board at our next meeting. Allen Reinhard added that this would give him time to consult with Rob McNeil, DPW Director, and Ken Beaugrand, Real Estate Specialist, on any interests that the Town might have in taking and redeveloping both parts of Winn Street. Nat Lowell also suggested that, if the road is taken, it should be made one way for safety purposes. [Action: Allen Reinhard to discuss this taking with Rob McNeil and Ken Beaugrand and put the item on next month’s agenda.]

5. Old, New, and Other Business, and Member Comments,

Bill Grieder reported that it was his understanding that property owners on Washington Avenue with encroachments into the public way had received notification letters.

6. Adjourn,

Adjourn: The meeting was adjourned at 5:07 pm by acclamation. Our next meeting will be held on **March 16, 2021.**

Lee W. Saperstein, Secretary _____ Date _____

Roads and Right of Way Outstanding Projects List:

Public Way Monument Project: (Lee & Allen & Snookie)

- Install remaining monuments at ‘Sconset Footpath, Hulbert Ave.
- Update file of existing monuments
- Move monuments at Westchester St. Ext. & Crooked Lane

Sidewalk Projects: (Allen)

- Prospect St. (bike path to Upper Vestal St.) and on to Madaket bike path
- Cliff Rd. Coffin Park to bike path at Sherburne Tpk.
- Pleasant St. Gardner Perry Lane to Williams St.
- Follow implementation of downtown sidewalk improvements
- Bike/Pedestrian connection from Surfside to Hummock Pond to Madaket paths

Harbor Walk Project: (Rick)

- Identify route and identify sections needing constructed walkway
- Concept drawings of construction required
- List permits and approvals needed and process to obtain
- Funding

Chapter 91 Monitor Project: (Leslie & Lee)

- Define goals for project
- Make local license information available on line
- Chapter 91 licenses along route for the Harbor Walk
- Locate other locations on Nantucket and Madaket Harbors requiring licenses

Nantucket Greenway and Trail System Project: (Allen and Lee)

- Nantucket Central Rail Road trail
- Map existing island trail and footpath systems and identify missing links
- How should maps and information be shared?