

SELECT BOARD

Minutes of the Meeting of February 22, 2023. The hybrid meeting took place in person at the Public Safety Facility Community Room at 4 Fairgrounds Road; and, via remote participation using Zoom Webinar. Members of the Board present were Jason Bridges, Matt Fee, Dawn Holdgate and Brooke Mohr. Dr. Malcolm MacNab joined remotely.

I. CALL TO ORDER

Chair Bridges called the meeting to order at 5:34 PM following a meeting of the County Commissioners.

II. SELECT BOARD ACCEPTANCE OF AGENDA

The agenda was accepted as posted and it was noted that Item XIII-1 (Historic District Commission (HDC) Appeal) will be taken up first, with respect to a request to continue the matter to April 26, 2023.

XIII. HDC APPEAL

1. Public Hearing to Consider the Appeal of Charles R. Schwarzapfel of Historic District Commission Disapproval of Certificate of Appropriateness No. HDC2020-10-2033 for a Pool, Patio, Screening and Fence Located at 9 Maine Avenue, Map 60.3.1, Parcel 425 (Continued from April 6, 2022, June 8, 2022, September 7, 2022; December 7, 2022). Ms. Holdgate spoke in support of the request to continue.

Discussion followed as to the number of times the matter has already been continued. Ms. Mohr reviewed the series of events leading up to the current status. Attorney Arthur Reade, representing the appellant, explained the history of the matter, noting that a new application has been filed with the HDC and remains before them. He explained the reasoning for the continuance: to give additional time for the HDC to act on the current (newer) application. Discussion followed as to the reasoning behind the HDC denial of the original application. Ms. Holdgate moved to grant the request to continue the hearing to April 26, 2023; seconded by Mr. Fee; by roll call vote: Chair Bridges – Yes; Ms. Holdgate – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

III. ANNOUNCEMENTS

Town Manager C. Elizabeth Gibson reviewed the following announcements.

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

2. No Select Board Meeting on Wednesday, March 1, 2023 (School Vacation Week); Next Meeting to be Held on Wednesday, March 8, 2023.

3. Select Board Announcements/Comments. No comments.

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

1. Follow-up on Public Comment from February 15, 2023 Board Meeting Regarding Short-Term Rental Certificate of Registration. Public Health Director Roberto Santamaria reviewed the status of the short-term rental registration program, noting that there have been some delays beyond the Town's control. He added that some components of the program are active, and it is hoped that registrations will be able to begin in the next couple of months. He explained that notices will be sent out to property owners identified through on-line research, shortly; and that an outreach plan is in process.

V. PUBLIC COMMENT

Kathy Baird asked some questions and made some suggestions as to the short-term rental registration program that she said were sent to Mr. Santamaria earlier today.

Kathy Baird read a comment she said she was reading on behalf of Curtis Barnes, relating to a “request” to lower the short-term rental registration fee.

Megan Perry spoke on comments she made at prior meetings, which she said have gone “unanswered”, relating to an “action plan” she believes is needed with respect to state permits, such as a recent state permit relating to the Surfside Crossing 40B development.

VI. NEW BUSINESS

There was no new business.

VII. APPROVAL OF MINUTES AND WARRANTS

Ms. Holdgate moved approval of items VII 1-3; seconded by Ms. Mohr; by roll call vote: Chair Bridges – Yes; Ms. Holdgate – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

1. Approval of Minutes of February 15, 2023 at 5:30 PM.

2. Approval of Payroll Warrants for February 19, 2023

3. Approval of Treasury Warrants for February 22, 2023.

VIII. CITIZEN/DEPARTMENTAL/COMMITTEE REQUESTS

1. Resignation Acceptance: Zoning Board of Appeals Alternate. Ms. Mohr moved approval of the resignation of Geoff Thayer with thanks for his service; seconded by Ms. Holdgate; by roll call vote: Chair Bridges – Yes; Ms. Holdgate – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

IX. REAL ESTATE ITEMS

1. Request for Approval and Execution of Acceptance of Declaration of Easements from Nantucket Conservation Foundation, Inc. over 112 Orange Street, Pursuant to Authority of Section 3.3 of Chapter 289 of the Acts of 1996. Real Estate Specialist Ken Beaugrand explained the matter, noting that the action is important with respect to drainage improvements in the area. Ms. Mohr moved approval as presented; seconded by Ms. Holdgate; by roll call vote: Chair Bridges – Yes; Ms. Holdgate – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

2. Request for Approval and Execution of Quitclaim Deed for Town-owned Parcel Known as Hinsdale Road, Parcel 31 as Shown on Plan of Land Entitled “Transfer of Property to the Nantucket Island Land Bank,” dated July 31, 2014, prepared by ACKME Survey LLC and recorded in Nantucket Registry of Deeds as Plan 2014-77, Pursuant to Vote on Article 81 of 2013 Annual Town Meeting. Mr. Beaugrand explained the matter. Mr. Fee commented that while a portion of Hinsdale Road is unconstructed, in order to alleviate traffic congestion, roads like this may need to be constructed in the future to establish a “grid pattern” to address congestion. Mr. Fee moved approval as presented; seconded by Ms. Holdgate; by roll call vote: Chair Bridges – Yes; Ms. Holdgate – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

3. Request for Approval and Execution of Quitclaim Deed for Town-owned Parcels Known as Parcels P-1, P-2, P-3, P-4 and P-5. Magnolia Avenue and Easements E-1 and E-2 on Magnolia Avenue as Shown on Plan of Land Entitled "Taking and Easement Disposition Plan, Magnolia Ave./East of Ocean Ave., Siasconset, Nantucket, Mass., Prepared for: Town of Nantucket," Dated October 26, 2022, Prepared by Blackwell & Associates, Inc. and Recorded with Nantucket County Registry of Deeds as Plan No. 2022-51, Pursuant to Votes on Articles 72 and 78 of 2018 Annual Town Meeting and Chapter 190 of the Acts of 2018. Mr. Beaugrand explained the matter. Ms. Mohr moved approval as presented; seconded by Mr. Fee; by roll call vote: Chair Bridges – Yes; Ms. Holdgate – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted. Mr. Fee congratulated Mr. Beaugrand for negotiating a transfer fee of \$1.00.

4. Request for Approval and Execution of Purchase and Sale Agreement, Quitclaim Deed and Settlement Statement for Town-owned Yard Sale Parcel Known as Parcel 5, Proprietors Road as Shown on Plan of Land Entitled "Taking and Disposition Plan of Land in Nantucket, MA Prepared for Sixty-Four Pocomo Road Realty Trust," Dated October 14, 2014, Prepared by Blackwell & Associates, Inc. and Recorded with Nantucket County Registry of Deeds as Plan No. 2014-100, Pursuant to Vote on Article 99 of 2014 Annual Town Meeting. Mr. Beaugrand explained the matter. Ms. Holdgate moved approval as presented; seconded by Ms. Mohr; by roll call vote: Chair Bridges – Yes; Ms. Holdgate – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

X. PUBLIC HEARINGS

1. Public Hearing to Consider Application for New Common Victualler with Seasonal All-Alcoholic Beverages Restaurant License for One Broad St. LLC d/b/a Surfside, Jared E. Smith, Manager, for Premises Located at 2 Broad Street. Chair Bridges opened the hearing. Licensing Administrator Amy Baxter reviewed the application, noting there is no history of a license of this type at this location. Ms. Baxter reviewed the statutory criteria for granting, and not granting, a liquor license. She reviewed the locations of establishments with liquor licenses in the general area. Attorney Rick Beaudette, representing the applicant, spoke in favor of the application, explained the proposed operation and reviewed other licenses both locally and off-island, held by the applicant(s). He reviewed the types of cocktails that would be served; the nature of the menu and the proposed hours of operation for both food service and liquor service. He spoke on other licensed establishments in the area. He spoke on the applicant's reputation, as being "responsible operators". Applicant David Scribner introduced himself and further explained the operational concept ("fast, casual") noting that cocktails are "integral" to their concept. He spoke on their policy of operating responsibly. He said the record at Millie's (their on-island establishment) is "impeccable". Applicant Jared Smith spoke on behalf of the application and further explained the operation, saying that there is no bar proposed and that the cocktails will be "pre-batched". He emphasized their policy of responsible service. Ms. Baxter suggested that, for consistency, the Board may want to consider some conditions as to alcohol service. Mr. Fee said he is glad to see no amplified music outside, and no alcohol service proposed after 10:00 PM. He asked about a proposed take-out window. Mr. Scribner said the pick-up area for food will be inside the restaurant and will not be transferred in and out of the window. Dr. MacNab clarified that alcohol cannot be removed from the restaurant. Ms. Baxter confirmed that is not allowed, that the alcohol must be consumed on premises. Bruce Mandel stated that with respect to "Madaket's experience" with Millie's, it would be helpful to ensure there is a manager on duty at all times, with a phone number that will be answered; he said there were/are parking issues with Millie's; he said litter from takeout is "astounding" in Madaket and the commitment to keep the area litter free was not successful; he said crowds at Millie's often exceed the allowable capacity. He suggested these issues be considered by the Board. Ms. Baxter pointed out the difference in operations between Millie's and this proposal. Mr. Beaudette addressed the issues brought up by Mr. Mandel. Ms. Mohr questioned how the alcohol service

will work and said the area is a “huge teen hangout” and a relatively unsupervised patio/outdoor area is a risk of concern. Mr. Beaudette acknowledged the concern and said the intent is to keep the outdoor area supervised. Some discussion followed as to the proposed location. Mr. Fee commented on impact on the adjacent residential neighborhood. He said monitoring the bathrooms could be an issue and said he would favor a condition requiring a supervisory presence outside. He said the area is very active. Ms. Holdgate asked if the license could be modified to allow for a bar, in the future. Chair Bridges questioned the expansion of other types of cocktails. Ms. Baxter said a bar would require an additional application and that other types of cocktails would be allowed with this license. Ms. Holdgate concurred that the outdoor service is a concern. She said she would support a condition that alcohol service would have to be served to, not taken by the patron outside. Mr. Fee asked about capacity. Ms. Baxter explained and noted there is a seating occupancy and a “standing” occupancy. She said there is a special permit at the proposed location which limits seating to 50. Dr. MacNab commented on the need for caution with a liquor license at this location. He said that he had experience with Millie’s when he was a member of the Board of Health. Ms. Mohr commented on occupancy and how that can be interpreted. Ms. Mohr asked if there could be a condition that alcohol can only be served to seated patrons. Ms. Baxter responded affirmatively. Rick Atherton expressed support for the comments made by Ms. Mohr; and said the voters and the public should be asked how they feel about alcohol service at this location/area. Chair Bridges said that he is pleased with the management at Millie’s, which is a “plus”. He said that alcohol services like this will change the complexity of the population that frequents the area. He said he could support an earlier closure of alcohol service. Dr. MacNab said he is very concerned about the character of the area (known as “the Strip”), changing. Mr. Beaudette said there is one other establishment on the Strip that has seats, and very few seats. He disputed the assertion that the character of the Strip will change. Mr. Scribner said that their concept is a “food concept” not a “drinking destination”. He said it will be a “family fun place”, it won’t be a place where people will have multiple drinks.

There being no further public comment, Ms. Holdgate moved to close the public hearing; seconded by Mr. Fee; by roll call vote: Chair Bridges – Yes; Ms. Holdgate – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

Mr. Fee said he is struggling to allow alcohol but if it were at a “low level”, he may be able to support it. He said control is important. Ms. Holdgate agreed and said the type of family friendly restaurant proposed is important as well. She said a 9:00 PM cease time for alcohol service could be better. Dr. MacNab agreed more family friendly restaurants are needed but once a liquor license is allowed in one location, it can “steamroll”. He said he does not yet see a good reason as to why a liquor license is needed here. Chair Bridges noted there is potential for current businesses on the Strip to change in nature and seek a liquor license in the future. Some discussion followed on precedent and associated concerns. Ms. Holdgate said she is not sure an outright denial is appropriate and with conditions it could be manageable. Ms. Holdgate moved approval of the application with the following conditions: direct table service only of alcohol, alcohol service to stop at 9:00 PM; all alcohol consumption must be by seated patrons; seconded by Ms. Mohr. Ms. Mohr asked about enforcement. Ms. Baxter explained how enforcement works, from warning(s) to a hearing before the Board. Ms. Mohr asked about limiting alcohol to pre-mixed drinks only. Ms. Baxter said that sort of condition is not allowed. Some discussion on this followed. Discussion continued as to the service of alcohol and how/when it is ordered. Mr. Scribner reiterated that the “fast, casual” nature of the establishment is that people will not “linger” at tables and would be unlikely to order more than one, possibly two drinks during their meal. Mr. Fee questioned the applicants’ alcohol vs food service sales at other locations. Mr. Scribner reviewed their other operations, saying that sales of alcohol at their locations

which are like this proposal are perhaps up to 15% of total sales. Mr. Fee said that a manager must answer phone calls.

On the motion, by roll call vote: Chair Bridges – No; Ms. Holdgate – Yes; Mr. Fee – Yes; Dr. MacNab – No; Ms. Mohr – Yes; so voted.

2. Public Hearing to Consider Application for New Non-Live Entertainment License for One Broad St. LLC d/b/a Surfside, Jared E. Smith, Manager, for Premises Located at 2 Broad Street. Chair Bridges opened the hearing. Ms. Baxter reviewed the application.

There being no public comment, Mr. Fee moved to close the public hearing; seconded by Ms. Holdgate; by roll call vote: Chair Bridges – Yes; Ms. Holdgate – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

Mr. Fee moved approval of the application as presented; seconded by Ms. Holdgate; by roll call vote: Chair Bridges – Yes; Ms. Holdgate – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

XI. TOWN MANAGER'S REPORT

1. FY 2023 Second Quarter Budget Reports: Sewer Enterprise Fund, Water Enterprise Fund, Airport Enterprise Fund. Ms. Gibson introduced the following department heads to review the budget reports:

Chair Bridges left the meeting at 7:13 PM; he returned at 7:15 PM.

Sewer Enterprise Fund – Sewer Director David Gray. Mr. Gray reviewed the materials in the Board's agenda packet. He noted that the cost of supplies is becoming significant.

Water Enterprise Fund – Water Director Mark Willett. Mr. Willett reviewed the materials in the Board's agenda packet. Mr. Willett said the second quarter is possibly the busiest the Water Department has ever had. He said that supplies are also increasingly difficult to obtain, as well as expensive as Mr. Gray had noted. Mr. Fee asked if the Island's population can be estimated based on gallons of water pumped. Mr. Willett said somewhat but increased gallons pumped can be due to a variety of factors not necessarily more people on-island. Mr. Fee asked if Mr. Willett can determine where water is being pumped to. Mr. Willett responded that specific destinations cannot be determined but the gallonage from each tank shows the areas of the island where water is being pumped. He said this time of year it is mostly downtown and mid-island.

Airport Enterprise Fund – Airport Manager Noah Karberg. Mr. Karberg reviewed the materials in the Board's agenda packet. Mr. Karberg said that currently expenses are outpacing revenue, he explained why.

Ms. Holdgate left the meeting at 7:22 PM; she returned at 7:24 PM.

Mr. Fee commented on the quarterly reports and said while he is very impressed with how far they have come over the last 15 years, he is not sure they need to be as frequent anymore. He suggested the Board consider getting other types of updates from the departments.

2. Monthly Town Management Report. Ms. Gibson provided a verbal report with updates on the following: preparations for the May 6, 2023 Annual Town Meeting; finalization of FY 2024 budgets; preparation of the FY 2022 Annual Town Report; collective bargaining; recruitment efforts for several Town positions; several concurrent projects including the Surfside area water main extension and associated transportation improvements; on-going PFAS testing; solid waste long-term planning; Baxter Road alternative access; planning for a joint meeting with the Select Board and Conservation Commission in connection with Sconset Bluff erosion control measures; initiation of planning for Newtown Road and Pleasant Street road reconstructions; spring road and sidewalk work planning; storm water drainage projects; and review of projects contained in the Sewer Master Plan.

XII. SELECT BOARD'S REPORTS/COMMENT

1. Committee Reports. Dr. MacNab asked about Ms. Perry's public comments earlier in the meeting and if they were going to be put on a future agenda. Chair Bridges said that the Town Manager addressed the issue with the state permit for Surfside Crossing a few weeks ago and that any action regarding staff would not be public. Mr. Fee suggested that if Dr. MacNab has follow-up questions or concerns that he speak directly with Ms. Gibson.

XIV. ADJOURNMENT

Ms. Holdgate moved adjournment at 7:30 PM; seconded by Ms. Mohr; by roll call vote: Chair Bridges – Yes; Ms. Holdgate – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

Approved the 8th day of March 2023.

**SELECT BOARD
FEBRUARY 22, 2023 – 5:30 PM
PSF COMMUNITY ROOM, 4 FAIRGROUNDS ROAD
AND REMOTE PARTICIPATION VIA ZOOM WEBINAR
NANTUCKET, MASSACHUSETTS**

List of documents used at the meeting:

- VII. 1. Draft minutes of 2/15/2023
- VIII. 1. Thayer - ZBA Alternate resignation; ZBA membership list
- IX. 1. AIS re: 112 Orange St; Declaration of Easements over 112 Orange St; Acceptance of Easement; GIS map of 112 Orange St
- IX. 2. AIS re: Hinsdale Road; Quitclaim Deed for Parcel 31, Hinsdale Rd; Plan No. 2014-77
- IX. 3. AIS re: Magnolia Ave; Quitclaim Deed for portions of Magnolia Ave; Plan No. 2022-51
- IX. 4. AIS re: Parcel 5, Proprietors Rd; Purchase & Sale Agreement; Quitclaim Deed; Plan No. 2014-100; Settlement Statement
- X. 1 & 2. AIS re: Surfside restaurant; ABCC signature page; Common Victualler, Liquor & Entertainment license application; ABCC application; Floor plan; Menus; Abutter info
- XI. 1. FY2023 2nd Quarter Budget Report: Sewer, Water, Airport
- XIII. 1. HDC appeal of 9 Maine Ave; HDC appeals procedure; Appeal submission for 9 Maine Ave; HDC file: Memo from HDC re: appeal of 9 Maine Ave; HDC 9 Maine Ave packet