

SELECT BOARD

Minutes of the meeting of March 6, 2019. The meeting took place in the Public Safety Facility Community Room, 4 Fairgrounds Road, Nantucket, MA 02554. Select members present were Jason Bridges, Matt Fee, Rita Higgins, and Dawn Hill Holdgate. James R. Kelly was absent.

I. CALL TO ORDER

Chair Bridges called the meeting to order at 6:00 PM.

II. SELECT BOARD ACCEPTANCE OF AGENDA

Chair Bridges noted that the public hearing for 25 Westerwyck Way (item X. 2) will be moved. The agenda was unanimously accepted by the Board with that change.

III. ANNOUNCEMENTS

1. Town Manager C. Elizabeth Gibson announced that the Select Board meeting is being video/audio recorded in accordance with the Open Meeting Law.

2. NRTA Administrator Paula Leary announced that the NRTA is holding a prize contest for riding the Wave March 11 – 29, 2019. Ms. Higgins mentioned she has received good feedback from Sconset residents about year-round service.

IV. PUBLIC COMMENT

None.

V. NEW BUSINESS

None.

VI. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

1. Approval of Minutes of February 13, 2019 at 6:00 PM. Ms. Hill Holdgate moved to approve minutes of February 13, 2019 at 6:00 PM; Mr. Fee seconded. So voted 4-0.

2. Approval of Payroll Warrants for Weeks of February 24, 2019; March 3, 2019. Ms. Hill Holdgate moved to approve payroll warrants for weeks of February 24, 2019 and March 3, 2019; Mr. Fee seconded. So voted 4-0.

3. Approval of Treasury Warrants for February 27, 2019; March 6, 2019. Ms. Hill Holdgate moved to approve treasury warrants for February 27, 2019 and March 6, 2019; Mr. Fee seconded. So voted 4-0.

4. Approval of Pending Contracts for March 6, 2019 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference. Ms. Gibson noted the contract amount for the Avalon Consulting Group is for up to \$2,000. Ms. Hill Holdgate moved to approve pending contracts for March 6, 2019; Ms. Higgins seconded. So voted 4-0.

VII. CONSENT ITEMS

1. Gift Acceptance: Human Services (Saltmarsh Senior Center); Our Island Home; Natural Resources Department. Ms. Higgins moved to approve all gifts for their designated purposes, with thanks to the donors; Ms. Hill Holdgate seconded. So voted 4-0.

VIII. TOWN MANAGER'S REPORT

1. Cable Television License Renewal Update. Assistant Town Manager Gregg Tivnan, representing the Cable Access Advisory Committee, reviewed the cable television license renewal process with Comcast. The Town's PEG channel provider, NCTV, showed a video in support of the PEG channel services. NCTV Executive Director Lisa Getter introduced NCTV's business plan and reviewed the importance of the Comcast franchise fee to the station and to the community. The Board expressed support for the Town's PEG channel and the proposed Comcast franchise fee increase from 3% to 5%. Mr. Fee commented about the need to improve Comcast internet service. Mr. Tivnan said that while internet services are outside the scope of the cable television license, he suggested that this negotiation might give the Town the possibility of bringing Comcast representatives to discuss internet services. Ms. Hill Holdgate suggested an increase in the franchise fee of 6%. Mr. Tivnan noted that there is a statutory cap of 5%. Chair Bridges spoke positively as to the programs that NCTV provides and its involvement in government meetings and community events.

2. Energy Office: Massachusetts Green Communities Designation Overview. Energy Office Coordinator Lauren Sinatra introduced Mass. Department of Energy Resources Southeast Regional Coordinator Seth Pickering. Mr. Pickering gave a presentation and reviewed a map showing all Commonwealth Green Communities since 2010 and spoke on the program's purpose and benefits to communities. He noted Nantucket's estimated initial designation (one-time) grant amount would be \$150,000, with the possibility of further grants of up to \$200,000 thereafter. Mr. Pickering reviewed awards granted to other communities and the criteria needed for designation as a Green Community. He noted that out of 351 Massachusetts municipalities, 250 have the Green Community designation. Mr. Pickering answered questions from the Board. Ms. Higgins said she is supportive of the initiative; she asked questions relating to the electric vehicles criterion. Mr. Fee asked questions relating to solar panels at the landfill and the as-of-right siting criterion. Mr. Pickering noted that the Town can designate solar panel areas. Chair Bridges questioned the why the Stretch Code has not been adopted by very many Cape towns. Mr. Pickering answered questions from resident Bob DeCosta related to the Stretch Code. Mr. Pickering offered to come back for an information session on the Stretch Code and Nantucket's Historic District. Ms. Sinatra noted that the Nantucket Builders Association and the Building Commissioner have been involved with the Green Communities program and feel that it can be implemented on Nantucket. Ms. Gibson noted a next step to adopt this program would be a Select Board vote to seek the designation. Mr. Pickering answered questions from a resident related to how population affects the initial grant designation number. Ms. Gibson noted that Town Administration will be working on next steps and an implementation plan for further Board review/action in the near future.

3. Review of Marijuana Request for Qualifications (RFQ) Review Committee Report for Co-located Adult-use Marijuana Retail Establishment and Medical Marijuana Dispensary RFQ. Ms. Gibson, representing the Marijuana RFQ Review Committee, reviewed background on the RFQ process. She said that following numerous meetings, the Committee's report resulted in the same evaluation rating for both proposers. Chair Bridges explained that the number of recreational/adult use licenses available are limited to two by town meeting vote, and that one has already been granted to Green Lady Dispensary. Mr. Fee asked about the Committee's evaluation process and said the Board should base its decision on proper criteria. Ms. Gibson noted that Town Counsel was present at every meeting and noted that ultimately it is the Board's responsibility to award the RFQ. Ms. Hill Holdgate said she feels it is very difficult for her to make a decision with the current information. Chair Bridges feels the Board's responsibility is to make a decision after working on this topic for two years. Mr. Fee spoke against issuing a new RFQ. Ms. Higgins answered questions from Board members regarding the RFQ process. Attorney Brian Riley from Town Counsel's

office answered questions from Board members. Ms. Gibson and the Board discussed possible options regarding the tie recommendation. David Martin urged the Board to make a decision. Ms. Gibson answered additional questions from Board members. Chair Bridges suggested dates to continue this discussion and make a decision. He asked the Board what kind of information would be useful for Board members to make a decision with a full Board. Ms. Higgins said that finding a way to consolidate the information would probably be useful for the Board's decision. She does not feel that restarting the RFQ process would be useful. Ms. Higgins said she is ready to vote but with a full Board. She added that she would like a report from professional staff and an interview with each applicant CEO or person in charge. Ms. Gibson commented that professional staff already provided reports on pertinent sections of each proposal. The Board agreed to continue this discussion at the March 20 Select Board meeting. Melissa Murphy asked how the Board could change the current license limitation of two. Attorney Riley noted that the bylaw would need to be changed by town meeting vote. Attorney Sarah Alger encouraged the Board to show leadership and make a decision, which she said it is in the process of doing. Attorney Steven Cohen, representing Mass Medi-Spa, thanked the Board and the Marijuana RFQ Review Committee for their due diligence. The Board and Ms. Gibson discussed further information the Board might need to make its decision. Ms. Gibson suggested giving more information on areas where the committee votes were different. The Board agreed to continue this matter to its March 20, 2019 meeting and to include a minority voting report. Ms. Gibson suggested that Board members consider what criteria is most important to them. Ms. Hill Holdgate said she doesn't feel she's been given enough information to make a "valid" decision. Former Mass Medi-Spa COO Dan Balling said he feels the Town and the Board should support a local organization rather than a corporation. Ms. Higgins asked clarification of whether or not the Board will be interviewing the applicants. Chair Bridges answered that it could be a possibility the Board decides to pursue. Ms. Higgins moved to continue the discussion and consider action at the Board's March 20, 2019 meeting with the inclusion of a more detailed minority report; Mr. Fee seconded. It was agreed that any further Board questions will be sent to Chair Bridges, Ms. Higgins or Ms. Gibson. So voted 4-0.

At 7:47 PM the Board took a brief break. The meeting reconvened at 7:53 PM.

IX. SELECT BOARD'S REPORTS/COMMENT

1. Review and Adoption of Hazard Mitigation Plan (Joint Meeting with Nantucket Planning and Economic Development Commission) (Continued from February 13, 2019). NP&EDC Chairman Nat Lowell called the Commission to order at 7:53 PM. Land Use Specialist Holly Backus reviewed changes made to the Hazard Mitigation Plan (HMP) since the February 13, 2019 joint meeting of the Select Board and NP&EDC, which included comments from the Board as well as public input. She noted the HMP has been reviewed by the Massachusetts Emergency Management Agency (MEMA) and the Federal Emergency Management Agency (FEMA). Ms. Backus said that FEMA has notified the Town that it is at the step of "Approved Pending Adoption". Ms. Backus asked the Select Board and NP&EDC to formally adopt the HMP on behalf of Town. She added that once adopted, and a "Formal Letter of Approval" is issued by FEMA, the Town is becomes eligible to apply for federal grants to fund specific mitigation projects, designed to reduce and/or eliminate vulnerabilities resulting from hazardous events. Going forward, the approved HMP will be updated at least once a year, with public input. Ms. Higgins thanked members of the public and Ms. Backus for their work. Ms. Hill Holdgate moved to adopt the HMP as presented; Ms. Higgins seconded. So voted 4-0. The NP&EDC voted unanimously to adopt the final HMP as presented.

2. Review of Select Board Comments to 2019 Annual Town Meeting Warrant Articles. Ms. Gibson reviewed the Town's public outreach efforts in advance of town meeting, then reviewed the warrant articles with the Board, noting Article 18, an appropriation to purchase the Nantucket Inn, is not moving forward. Housing

Specialist Tucker Holland explained the decision of not moving forward with the article, due to changed circumstances. Mr. Holland spoke on the Finance Committee's motion to Article 37, a citizen warrant article relating to a \$30,000,000 appropriation for affordable housing purposes. Mr. Fee suggested making a comment to the Finance Committee motion which recommends \$10,000,000. Article sponsor Tobias Glidden acknowledged the Finance Committee's motion and discussions about it and expressed disagreement with the \$10 million recommendation. Ms. Hill Holdgate spoke in support of a larger number, noting Mr. Glidden's article is simply an authorization and does not require borrowing the entire amount at one time. Ms. Higgins agreed with Ms. Hill Holdgate. Discussion followed on possible comments to the Finance Committee's motion. Rick Atherton commented in support of a \$20 million appropriation. Moderator Sarah Alger spoke on the process of making positive motions at town meeting. Ms. Hill Holdgate moved to add a Board comment to support the Finance Committee motion, but with an appropriation of \$20 million rather than \$10 million; Ms. Higgins seconded. So voted 4-0. Mr. Fee said he feels Article 71, a bylaw amendment regarding bicycles, might be the most important article in the warrant. He said the intent of the article is correct. Chair Bridges noted that article sponsor Ian Golding is willing to modify the motion. Ms. Gibson mentioned she and Chief of Police William Pittman have discussed with Mr. Golding possible ways of applying some of the article recommendations and relayed administrative concerns as to how the article is worded. Lengthy Board discussion followed on this article. Mr. Fee suggested that the Board include a comment to support the article with the driveway section removed. Ms. Higgins moved to add a comment to support the motion with reference to driveways removed from section 57-14 of the Code of the Town of Nantucket, and to support collaboration between the Police Department, Public Works and Bicycle and Pedestrian Advisory Committee to implement the intent of the article; Mr. Fee seconded. So voted, 4-0.

3. Committee Reports.

Mr. Fee spoke about comments he has heard from commercial waste haulers and their concerns related to recent waste sorting changes. Chair Bridges reported that he met with the DPW Director, Commission on Disability chair and facilitator and the Town Manager to discuss the Upper Main Street sidewalk reconstruction project. Mr. Fee said he feels that construction should wait at 86/88 Main Street until after the Board discusses this. The Board discussed the importance of preserving Nantucket's historic district. Ms. Hill Holdgate suggested advisory guidelines for the construction/reconstruction of roads and sidewalks in the historic district.

X. PUBLIC HEARINGS

1. Public Hearing to Consider Appeal of Joseph and Maureen Gagliano of Historic District Commission (HDC) Approval of Certificate of Appropriateness (COA) No. 71570 Regarding Property Located at 12 Westerwyck Way, Map 82, Parcel 64. Chair Bridges opened the public hearing and reviewed the appeal process. Appellant Joe Gagliano reviewed his issues with the pool approval, noting the area in Cisco is a very flat vista with natural vegetation. He stated the pool is an invasion to the neighbors' privacy. He said he feels the HDC final vote was conflicted and should be revisited and noted that one of the HDC members owns a pool company and may have had a conflict. He asked the Board to uphold his appeal. HDC Chair Ray Pohl noted that the five-member HDC board voted 3-2 in favor of the pool. He said it was a difficult application, which underwent a lot of scrutiny because of the amount of neighborhood opposition, and that the HDC approved the application since the pool will not be visible from a public way. He stated that the HDC is charged with the appropriateness of a structure as seen from a public way. He noted that in this area of Cisco, most of the houses are upside-down houses and the lots are small and close together. Mr. Pohl noted that the applicant demonstrated that the pool could be screened from the public way year-round and the majority of HDC members found no reason to object to it. Mr. Gagliano responded that he is not completely sure the pool is not visible from the street because it is so large. Attorney Cohen, representing

the owner of 12 Westerwyck Way, complimented the HDC on its decision, noting it was a very thorough assessment over many meetings. He said the HDC based its decision on the appropriateness of the design following suggested revisions and the sufficiency of screening proposed. Ms. Higgins asked Mr. Pohl if HDC enforces plantings. Mr. Pohl spoke on required screening vs. planting enforcement vs. fencing. Mr. Pohl answered questions from Board members. Attorney Cohen discussed HDC jurisdiction. Land Use Specialist John Hedden noted much consideration was given to types of plantings before the HDC decision was made, adding the HDC considered its guidelines to approve this application. Discussion followed among Board members. Further discussion followed on screening and plantings. Attorney Riley noted that HDC has to abide by its Special Act, not the Town's Master Plan. Ms. Higgins commented that property owners need to get to know their neighbors, adding that she feels pools are changing the landscaping of neighborhoods. Chair Bridges closed the public hearing. Mr. Fee said he is torn on this matter as he is worried about what precedent this could set but said he can't find that the HDC's decision was arbitrary or capricious. Ms. Higgins moved to approve the appeal, saying she feels relying on vegetation and an assessment of berms without guidelines was an arbitrary decision made by the HDC; Mr. Fee seconded. Ms. Hill Holdgate feels this was a very thorough example of the HDC process, and that they consistently apply planting plans to pools, fire pits, location of sheds and garage doors. She said she counted six pools in the immediate vicinity which are not nearly as thoughtfully screened as this one will be. She added she feels it is highly inappropriate to say that HDC acted in arbitrary or capricious manner and she feels voting that way would be substituting Board members' own opinions for that of the HDC. Ms. Higgins disagreed, stating that she finds the HDC decision based on the height of a berm and planting plans is arbitrary. Ms. Hill Holdgate said that it comes down to enforcement action when complaints are made. Chair Bridges agreed with Ms. Hill Holdgate, saying that although he sympathizes with the abutters, he does not feel the HDC decision was arbitrary or capricious. Mr. Fee asked what happens if the Board's vote is tied 2-2. Attorney Riley said if the motion on the floor is to approve the appeal, the motion fails. On the motion, so voted 2-2. Chair Bridges and Ms. Hill Holdgate were opposed.

Mr. Fee asked the Board to consider adding a comment to Article 53 of the 2019 Annual Town Meeting Warrant, a citizen article regarding pools that says the Select Board would like the Board of Health and the Planning Board to study and report on the impact of pools on the environment and the neighborhoods for consideration at the next special or annual town meeting. Ms. Gibson spoke on the Storm Management Regulation that is being developed and that will be an answer to some of these concerns. Some discussion among Board members followed. Ms. Higgins offered to review a final Board comment drafted by Ms. Gibson for Article 53. The Board agreed to add a comment.

2. Public Hearing to Consider Appeal of Joseph and Sharon Squicciarino of Historic District Commission (HDC) Approval of Certificate of Appropriateness (COA) No. 71644 Regarding Property Located at 25 Westerwyck Way, Map 82, Parcel 120. [The Board was to have opened the public hearing and make a motion to continue the public hearing to April 10, 2019 pursuant to a request from the appellant to continue the public hearing. Unfortunately, the Board did not take this action.]

XII. ADJOURNMENT

The meeting was unanimously adjourned at 9:49 PM.

Approved the 20th day of March, 2019.

SELECT BOARD
MARCH 6, 2019 – 6:00 PM
PUBLIC SAFETY FACILITY COMMUNITY ROOM
4 FAIRGROUNDS ROAD
NANTUCKET, MASSACHUSETTS

List of documents used at the meeting:

- III. 2. NRTA contest flyer
- VI. 1. Draft minutes of February 13, 2019
- VI. 4. Pending contracts for March 6, 2019
- VII. 1. Gift acceptance summary; Human Services (Saltmarsh Senior Center) gift letter; Our Island Home gift letter; Natural Resources Dept. gift letter
- VIII. 1. Cable Television license renewal update; fact sheet; capital plan
- VIII. 2. Green Communities PowerPoint
- VIII. 3. Marijuana RFQ Review Committee report
- IX. 1. Memo from H. Backus, re: Hazard Mitigation Plan
- IX. 2. 2019 ATM cover sheet; draft 2019 ATM Warrant
- X. 1 & 2. HDC Appeals procedure
- X. 1. HDC appeal of 12 Westerwyck Way; HDC file; HDC memo/appeal rebuttal
- X. 2. HDC appeal of 25 Westerwyck Way; HDC file; HDC memo/appeal rebuttal