

## SELECT BOARD

Minutes of Meeting of March 23, 2022. The hybrid meeting took place in person at the Public Safety Facility at 4 Fairgrounds Road; and, via remote participation using Zoom Webinar. Members of the Board present were Jason Bridges, Matt Fee and Melissa Murphy. Dawn Hill Holdgate joined the meeting later as noted. Kristie Ferrantella joined the meeting remotely. The meeting opened with the Pledge of Allegiance.

### I. CALL TO ORDER

Chair Bridges read a prepared statement as to how the meeting will be conducted 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 AGNDA

The agenda was accepted without change.

### 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 30, 2022 (5<sup>th</sup> Wednesday)
3. Select Board Announcements/Comments.

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

1. March 16, 2022 Public Comments/Inquiries: 1) Status of Walter Barrett Pier Reconstruction Project, F Street, Madaket; 2) Dredging of "Ditches in Madaket". Ms. Gibson reviewed the status of the pier project and said that while it has been delayed due to supply chain issues, it is expected to be open this week. She said that regarding the dredging of the Madaket ditches, a more detailed review has been scheduled as an agenda item for the Board's April 13<sup>th</sup> meeting and noted that Natural Resources Director Jeff Carlson can provide an overview of the complications tonight. Mr. Carlson provided a brief overview of the permitting requirements and related issues with such dredging. He added that if there are specific questions that can be provided in advance of the April 13<sup>th</sup> meeting that would be very helpful.

### V. PUBLIC COMMENT

Brooke Mohr asked about the schedule for line and crosswalk painting. Operations Administrator Erika Mooney answered and said that will be happening by early April.

Jonathan Shaer spoke against Article 70 of the 2022 annual town meeting, noting that he represents convenience stores in Massachusetts, including 19 on Nantucket. He urged the Board to vote "no" on the Article.

### VI. COVID-19 UPDATE

1. Public Health Department Update. Public Health Director Roberto Santamaria reviewed the most recent wastewater testing which is currently indicating less than one case per week; he said that two positive cases have been identified in the community in the last week. He spoke on a current COVID variant going around the country and said that it is not considered a serious public health threat. He spoke on current and

upcoming vaccine clinics and explained how people can sign up. Ms. Murphy asked about preparedness for testing in the event of a surge in cases. Mr. Santamaria said that PCR testing has wound down and most people are relying on rapid tests at this point. Chair Bridges asked about rapid test expiration dates. Mr. Santamaria explained there is an expiration date and the reason for it; he said that the tests are still somewhat effective after the expiration date.

## VII. NEW BUSINESS

No new business.

## VIII. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

Ms. Murphy moved approval of items VIII 1 – 3; seconded by Mr. Fee. So voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Murphy – Yes; Ms. Ferrantella – Yes.

1. Approval of Minutes of March 16, 2022 at 5:30 PM.

2. Approval of Payroll Warrants for March 20, 2022.

3. Approval of Treasury Warrants for March 23, 2022.

4. Approval of Pending Contracts for March 23, 2022 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference. Ms. Gibson reviewed the intramunicipal agreement; the National Grid and Valet Park of America licenses; and the Eisenstein Flaherty contract. She asked that the landscaping contract with Tom Hanlon be removed from consideration tonight as it needs further review. Mr. Fee asked if the playing field maintenance contract makes clear the Town's fertilizer regulations. Director of Municipal Finance Brian Turbitt and Parks and Recreation Manager Charlie Polachi responded affirmatively. Mr. Fee moved approval; except for the Hanlon contract; seconded by Ms. Murphy. So voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Murphy – Yes; Ms. Ferrantella – Yes.

## IX. CITIZEN/DEPARTMENTAL/COMMITTEE REQUESTS

1. Applicant Introduction/Review of Applications and Appointment to Planning Board (Alternate Seat), Pursuant to Select Board Committee Appointment Policy. Applicants for the vacancy were introduced: Jennifer L. Porter; F. Scott Wilson; Carl K. Borchert; Colin Wyatt Leddy. The following spoke on their applications: Carl K. Borchert; F. Scott Wilson. Chair Bridges explained that the Board's votes will be sent to Ms. Mooney by email, compiled by her and read aloud. Ms. Mooney re-reviewed the process. The Board emailed votes and/or gave them aloud as follows:

Ms. Murphy – Carl Borchert  
Ms. Ferrantella – Jennifer Porter  
Mr. Fee – Carl Borchert  
Chair Bridges – Carl Borchert

Carl Borchert so appointed. All applicants were thanked for their applications.

2. Habitat for Humanity Nantucket: Request for Waiver of 50% of Building Permit Fees for Duplex at 9A Benjamin Drive and Single-Family Dwelling at 9B Benjamin Drive. Chair Bridges noted the matter is within

the Board's policy. Ms. Murphy moved approval; seconded by Ms. Ferrantella. So voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Murphy – Yes; Ms. Ferrantella – Yes.

3. Nantucket Conservation Foundation: Request for Approval of Conservation Restriction to be Held by Nantucket Conservation Foundation, Inc. for Land Located at 35 Shawkemo Road. Real Estate Specialist Ken Beaugrand introduced the item and explained the parameters of the restriction, noting there would be no public access; however, he recommends that it is in the public interest. Mr. Fee moved approval, finding it to be in the public interest; seconded by Ms. Murphy. So voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Murphy – Yes; Ms. Ferrantella – Yes.

Mr. Fee commented that he finds it interesting that the Board's perception of Conservation Restrictions has changed positively over the years with respect to their value.

4. The Surf LLC: Request to Approval to Construct New Deck and Porch Roof at Children's Beach Concession, 15 Harbor View Way. Mr. Polachi introduced the item and reviewed the proposal. Mr. Fee asked about the details of the roof work. Abby Shaw of The Surf responded and explained the intent is to design something that "flows" around the building. After some discussion, Mr. Fee commented that he would want to see exactly what is being proposed in more detail before approving it. Ms. Murphy suggested that when the design is more final, and approved by HDC, that it be brought back for final Board review. Ms. Ferrantella agreed. Some discussion followed. Mr. Fee said he would rather not approve it now but wait until design has already been approved by the necessary Town boards. Mr. Fee moved to approve the proposal "in concept" including the points as laid out in the agenda information sheet, so that the applicants can move forward, with final design to come back to the Board; seconded by Ms. Murphy. Ms. Shaw thanked the Board and thanked them for the previous award of the concession lease. Ms. Murphy asked about the construction window dates. Mr. Polachi answered and said he will determine the purpose behind the dates. So voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Murphy – Yes; Ms. Ferrantella – Yes.

5. Winthrop Nantucket Nominee Trust/Harbor Fuel Oil Corp.: Request for Extension of Bulk Fuel License at 6 New Whale Street (fka 9 Salem Street, fka 8 New Whale Street) to December 31, 2022. Ms. Ferrantella recused from this item and item X-1. Fire Chief Stephen Murphy introduced the item. Ms. Murphy said she hopes the project will be completed by the end of the year. Ms. Murphy moved approval; seconded by Mr. Fee. So voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Murphy – Yes.

## X. PUBLIC HEARINGS

1. Public Hearing Pursuant to MGL Ch. 148 § 13 to Consider an Application for New Bulk Fuel Storage License for Winthrop Nantucket Nominee Trust/Harbor Fuel Oil Corp. for Two New Fuel Tanks (Class I Gasoline, 9,999 Gallon Tank and Class II Diesel Fuel, 9,999 Gallon Tank), Located at 6 New Whale Street (fka 9 Salem Street, fka 8 New Whale Street), Nantucket, MA 02554 (Map 42.3.1, Parcel 89.1). Chair Bridges opened the hearing. Chief Murphy reviewed the application, noting that it is expected that the work will be done this fall. He noted that these tanks serve the Boat Basin fuel dock. There was no public comment.

Mr. Fee moved to close the hearing; seconded by Ms. Murphy. So voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Murphy – Yes.

Ms. Murphy moved to approve the application; seconded by Mr. Fee. So voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Murphy – Yes.

## XI. TOWN MANAGER'S REPORT

1. Monthly Town Management Report. Ms. Gibson reviewed the report as contained in the Board's agenda packet. Chair Bridges asked about the status of seasonal hiring. Ms. Gibson responded.

Chair Bridges left the meeting at 6:19 PM; he returned at 6:21 PM.

## XII. SELECT BOARD'S REPORTS/COMMENT

1. Action on Memorandum of Understanding with Siasconset Beach Preservation Fund (SBPF). Ms. Gibson introduced the item and reviewed the purpose of the MOU, responded to comments received by the Conservation Commission (ConCom) and Nantucket Coastal Conservancy (NCC) and reviewed serious potential issues if the erosion control project were to be removed. She stated that the letter from the ConCom is inaccurate, goes beyond the scope of what was allowed the ConCom by the Board for special legal counsel activities, in no way interferes with the ConCom's authority and is not collaborative sounding. Ms. Murphy said she'd like to hear from Chair Bridges and Ms. Ferrantella as she and Mr. Fee have been involved with staff as to MOU discussions. Ms. Ferrantella said she appreciates the time that has been spent on this and said she is ready to vote tonight. Chair Bridges said he'd like to hear some public comment first and agreed with Ms. Ferrantella as to the time and effort that has been spent on this. Mr. Fee said he is disappointed by the ConCom letter, noting that several items referenced in it are outside of their purview and that while mistakes may have been made in the past with this project, those issues are rectified with the MOU. He reiterated his disappointment at the contentiousness of the project, noting the massive exposure if the road fails. He said it is a discouraging situation. Chair Bridges commended Mr. Fee for his work to try to bring parties together, which has been extensive. Ms. Murphy said that this is the first major coastal resiliency project for the island, and it may be part of that dynamic that is contributing to the controversy. Ms. Murphy commented that the ConCom's position has been that it cannot comment on issues not before it and finds the letter to be the complete opposite of that position. She said the only suggestion she can come up with for a path forward is some kind of meeting with the Board and ConCom – either full boards or, Board members. She said the MOU sets in place an accountability structure that wasn't there before. She reiterated the seriousness of what Ms. Gibson mentioned regarding the loss of the road and the liability that represents. Chair Bridges said he is hesitant to have a meeting because of prior experience with such meetings not being productive. Ms. Murphy said perhaps a suggested path forward is to postpone a vote and have two Board members and two ConCom members meet first. She said the letter from the Special Counsel is confusing and needs some conversation with ConCom. Mr. Fee said he is willing to meet 2-2. Mr. Fee emphasized the need to relay to the community the real risks of the loss of the road. Ms. Murphy reiterated a 2-2 meeting as a next step. She added that based on the substance of the ConCom letter she is also supportive of executing the MOU tonight. Ms. Ferrantella questioned the benefit of waiting to execute the MOU and what might change. Ms. Murphy commented that because the MOU could be a model going forward, it is important to have conversations about it ahead of time. Attorney George Pucci from Town Counsel's office cautioned the Board that if two members of the Board are appointed by the Board to formally engage in a matter going before the Board, that would be a subcommittee that is subject to the Open Meeting Law. Mr. Fee suggested that there could be one Select Board member for such a meeting. D. Anne Atherton suggested that most of the public does not have all of the information that the Board has, such as the letter from the ConCom special counsel. She added the special counsel sent a second letter relating to judicial proceedings of a litigation matter involving an

enforcement order for the project. She asked that both letters be made public and posted on the Town's website.

Dawn Holdgate joined the meeting at 6:58 PM.

Ms. Atherton spoke at length about concerns with executing the MOU tonight and asked the Board to convene a workshop meeting to allow further public discussion on the MOU. RJ Turcotte spoke in support of a workshop meeting. Chair Bridges said the Board has already tried to address ConCom concerns and is not sure what a workshop meeting would accomplish. Mr. Fee agreed and said the ConCom letter was inflammatory. Discussion followed regarding the letter. Mr. Pucci advised against posting the letter on the website, noting that while it is a public record, and anyone can request it, there is no reason to post it, especially in light of the fact that there is disagreement as to the legal validity of it. He noted that the special counsel scope was limited, and the letter went beyond that scope. He stated that the MOU does not in any way intrude on the ConCom's jurisdiction. He spoke on other legalities of the letter. Ms. Holdgate said she welcomes communication with the ConCom but is concerned about the special counsel letter, including the fact that it went beyond the scope of what was approved. She commented the letter was very disappointing and also it wasn't drafted publicly. She agreed that the ConCom's authority is not superseded in any way and noted that there are numerous projects that need to get accomplished and a collaborative path forward needs to be found. Ms. Murphy suggested that Board have additional discussion about whether or not to have a workshop meeting. Ms. Holdgate said she does not see a reason to postpone action. Some discussion followed. Ms. Murphy said she does feel confident about the MOU. Chair Bridges said even if the Board executes the MOU, a workshop could still occur. Ms. Ferrantella said she thinks it is worth continuing a conversation with ConCom but doesn't see delaying the vote as necessary. Ms. Holdgate moved to endorse the MOU and to continue discussion with the public and the ConCom; seconded by Ms. Ferrantella. Ms. Holdgate commented that she hopes further communication with the ConCom will not be through their special counsel, as that was not the reason for it. So voted by roll call vote: Chair Bridges – Yes; Ms. Holdgate – Yes; Ms. Murphy – Yes; Ms. Ferrantella – Yes; Mr. Fee – Yes. Mr. Fee urged all parties to work together. Some discussion followed on that. It was generally agreed that staff will work to develop and schedule a workshop meeting.

2. Committee Reports. Ms. Murphy said that last week's Board of Health meeting was postponed to this week. Ms. Holdgate said the Affordable Housing Trust met yesterday and had good conversation about a down payment assistance program. Mr. Fee reported on a Coastal Resilience Advisory Committee (CRAC) meeting last week specific to the role of the group going forward. Ms. Murphy asked about the CRAC's interim recommendation with respect to certain projects in proximity to coastal areas. Some discussion followed. Chair Bridges commented on upcoming agenda items for April 6, 2022.

### XIII. ADJOURNMENT

At 7:29 PM, Ms. Murphy moved adjournment; seconded by Ms. Holdgate. So voted by roll call vote: Chair Bridges – Yes; Ms. Holdgate – Yes; Mr. Fee – Yes; Ms. Murphy – Yes; Ms. Ferrantella – Yes.

Approved the 6<sup>th</sup> day of April 2022.

**SELECT BOARD**  
**MARCH 23, 2022 – 5:30 PM**  
**PSF COMMUNITY ROOM, 4 FAIRGROUNDS ROAD**  
**AND REMOTE PARTICIPATION VIA ZOOM WEBINAR**  
**NANTUCKET, MASSACHUSETTS**

List of documents used at the meeting:

- IV. 1. Status of Walter Barrett Pier; Dredging Madaket Ditches
- VIII. 1. Draft minutes of 3/16/2022
- VIII. 4. Pending contracts spreadsheet
- IX. 1. Planning Board Alternate vacancy appointment timeline; Planning Board Alternate membership & applicant list; PB Alt applications
- IX. 2. AIS re: Habitat building permit fee waiver request; Waiver request from Habitat for Humanity; Draft Policy for Building Permit Fee Waiver Requests
- IX. 3. AIS re: Conservation Restriction (CR) for 35 Shawkemo Rd; CR/PR Policy; Town Counsel report; Final CR for 35 Shawkemo Rd
- IX. 4. AIS re: Children's Beach Concession construction request; The Surf LLC request documents
- IX. 5. AIS re: Winthrop-Harbor Fuel Bulk Fuel License EXTENSION; VHB request documents; Portion of Select Board 4/7/2021 minutes
- X. 1. AIS re: NEW Winthrop-Harbor Fuel Bulk Fuel License; VHB request documents; Abutter notification documents
- XI. 1. Town Management Activities Report
- XII. 1. Summary term sheet for MOU with SBPF; Full list of terms for MOU with SBPF; Final draft of MOU with SBPF